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LANE COUNTY S.O. CIVIL
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BTS 411

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LANE

NATIONSTAR MORTGAGE LLC D/B/A
CHAMPION MORTGAGE COMPANY,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF DONALD L. JONES AKA DONALD
LE ROY JONES; UNITED STATES OF
AMERICA; STATE OF OREGON; DAVID
PUBOLS; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 17CV00009

WRIT OF EXECUTION IN
FORECLOSURE

TO THE LANE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on October 2, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

NATIONSTAR MORTGAGE LLC D/B/A CHAMPION MORTGAGE COMPANY
c/o Brady Godbout
Attorney for Plaintiff

McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$282,862.77, plus post judgment interest at the statutory rate
2 of 9.0% per annum from 10/2/2017 to 10/19/2017 the amount of \$1,185.70, and continuing with
3 a per diem of \$69.75, currently totaling \$284,048.47.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
7 about September 7, 2007, the date of the Deed of Trust, and also the interest that the Defendant
8 had thereafter, in the real property described in attached *Exhibit 1*, APN/Parcel# 0988822, and
9 commonly known as (street address): 1440 Amberland Avenue, Eugene, OR 97401.

10 Sale of the property is to satisfy the sum listed above, plus the costs incurred in
11 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under
12 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.
13 You are to make the return within 60 days after you receive this Writ. Should the sale be
14 continued, the writ may be automatically extended for 30 days.

15 **DATED:** 20th day of October, 2017.

16 By: Angie Jones
17 court clerk



1 Dated: October 17, 2017 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ Brady Godbout

4 _ John Thomas OSB No. 024691
5 _ Robert Hakari OSB No. 114082
6 _ Andreanna Smith OSB No. 131336
7 x Brady Godbout OSB No. 132708
8 _ Brian Kidder OSB No. 140459
9 _ Jeremy Clifford OSB No. 142987
10 _ Michael Scott OSB No. 973947
11 920 SW 3rd Ave, 1st Floor
12 Portland, OR 97204
13 Phone: (971) 201-3200
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15 bgodbout@mccarthyholthus.com
16 Of Attorneys for Plaintiff
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Exhibit "1"

Lot 3, Block 2, TABOR PARK, as platted and recorded in Book 58, Page 9, Lane County Oregon Plat Records, in Lane County, Oregon.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LANE

NATIONSTAR MORTGAGE LLC D/B/A
CHAMPION MORTGAGE COMPANY,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF DONALD L. JONES AKA DONALD
LE ROY JONES; UNITED STATES OF
AMERICA; STATE OF OREGON; DAVID
PUBOLS; OCCUPANTS OF THE
PROPERTY

Defendants.

Case No.: 17CV00009

GENERAL JUDGMENT OF
FORECLOSURE

I.

THIS MATTER came before the Court on Plaintiff's motion.

a. Defendants THE UNKNOWN HEIRS AND DEVISEES OF DONALD L. JONES
AKA DONALD LE ROY JONES; UNITED STATES OF AMERICA; STATE OF
OREGON; DAVID PUBOLS; OCCUPANTS OF THE PROPERTY ("Defaulted
Defendants") were duly served with process and failed to appear; the default has been
entered against Defaulted Defendants, and it appearing that Defaulted Defendants are
not incapacitated, protected persons, respondents as defined in ORS 125.005, minors,
or in the military service of the United States;

2.

IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

a. The real property to which this judgment relates is located and situated in Lane County,
Oregon, and is commonly known as 1440 Amberland Avenue, Eugene, OR 97401 (the

1 "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having
2 APN/Parcel No. 0988822.

3 b. Plaintiff is entitled to enforce the note dated September 7, 2007 and made, delivered, and
4 executed by Donald Jones to US Financial Mortgage Corp in the amount of \$377,625.00 (the
5 "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement
6 set forth on the Note.

7 c. A deed of trust was made, executed, and delivered by Defendant Donald L. Jones on or about
8 September 7, 2007 (the "Deed of Trust"). The Deed of Trust was recorded on September 12,
9 2007 as Instrument No. 2007-063657 in the official records of Lane County, Oregon. The
10 Deed of Trust is a valid and perfected lien against all of the Property for and securing the
11 Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the
12 Defendants and shall remain in effect until issuance of a Sheriff's Deed.

13 d. The Borrower failed to make the payment that was due for January 8, 2013 and has not cured
14 the default. The amount of debt secured by the Deed of Trust that is now due and owing is
15 comprised of the following amounts (the "Amount Due"):

16	a) Unpaid principal balance:	\$178,953.97
17	b) Prejudgment interest accruing from 18 9/7/2007 through 8/31/2017.	\$33,419.50
19	c) Additional amounts due under the 20 terms of the loan:	\$66,438.72
21	d) Attorney fees and costs	\$3,965.58
22	e) Prevailing party fee (ORS 20.190 23 (1)(a)):	\$85.00
	Total:	\$282,862.77

24 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
25 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%
26 per annum.

28

- 1 e. The interest of the Defendants and any successor in interest in the Subject Property is
2 foreclosed and terminated excepting only any statutory right of redemption as provided by
3 Oregon law.
- 4 f. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the
5 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a
6 28 U.S.C. § 2410(c) one-year redemption right in this case.
- 7 g. The Defendant is not entitled to a homestead exception as against Plaintiff's judgment.
- 8 h. All right, title and interest in the Subject Property that Defendants Donald L. Jones had as of
9 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the Lane
10 County Sheriff's Office in accordance with the process for sale upon execution, and the
11 proceeds of sale shall be applied:
- 12 1) First, to the costs of sale not incurred by Plaintiff;
 - 13 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
14 entry of judgment through the date of the sale and any incurred costs of sale;
 - 15 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
16 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
17 such party or parties as they may establish their right thereto.
- 18 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
19 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
20 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 21 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
22 Property from and after the date of the sale and is entitled to such remedies as are available at
23 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
24 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
25 possession to the purchaser immediately upon the purchaser's demand for possession.
- 26 k. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
27 entitled to any further or other judgment, including a judgment for the deficiency.
- 28

- 1 l. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
2 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
3 terminated.
- 4 m. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
5 Deed of Trust are as follows:
- 6 1) Defendant, THE UNKNOWN HEIRS AND DEVISEES OF DONALD L. JONES
7 AKA DONALD LE ROY JONES, may claim a junior interest in the Property by
8 virtue of intestate succession, devise or operation of law.
 - 9 2) Defendant, UNITED STATES OF AMERICA, may claim an interest in the Subject
10 Property under the terms of an additional, subordinate note and deed of trust,
11 associated with this loan issued to the Secretary of Housing and Urban Development
12 (the "HUD Loan") in the amount of \$377,625.00. The deed of trust associated with
13 the HUD Loan is recorded in the official records of Lane County as Instrument No.
14 2007-063658 on 09/12/2007.
 - 15 3) Defendant, STATE OF OREGON, has or may have a lien against the Property under
16 the State of Oregon tax deferral program.
 - 17 4) Defendant, DAVID PUBOLS, may claim a junior interest in the Property by virtue of
18 intestate succession, devise or operation of law.
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Signed 9/29/2017 02:18 PM



R. Curtis Conover, Circuit Court Judge

1 I hereby certify that the requirements of UTCR 5.100 have been satisfied.

2 This proposed Judgment of Foreclosure is ready for judicial signature because:

3
4 The relief sought is against an opposing party who has been found in default.

5
6 Dated: September 21, 2017 and submitted by:

7 **McCarthy & Holthus, LLP**

8 s/ Brady Godbout

9 Brady Godbout OSB No. 132708

10 920 SW 3rd Ave, 1st Floor

11 Portland, OR 97204

12 Phone: (971) 201-3200

13 Fax: (971) 201-3202

14 bgodbout@mccarthyholthus.com

15 Of Attorneys for Plaintiff

Exhibit "1"

Lot 3, Block 2, TABOR PARK, as platted and recorded in Book 58, Page 9, Lane County Oregon Plat Records, in Lane County, Oregon.