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

FIRST HORIZON HOME LOANS A
DIVISION OF FIRST TENNESSEE BANK
NATIONAL ASSOCIATION,

Plaintiff,

v.

LAURA A. FOUMAL; SHAWN D. STARR;
THE UNKNOWN HEIRS AND DEVISEES
OF ARTHUR J. HAMREN; LIBERTY
BANK; NATIONAL CHRISTIAN
ORGANIZATION FOR PROPERTY
RESCUE; PACIFIC CONTINENTAL BANK;
AMERICAN EXPRESS CENTURION
BANK; RIVERWALK HOLDINGS LTD;
B2PW PARTNERS, LLC; NATIONAL
COLLEGIATE STUDENT LOAN TRUST
2004-1; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV19388

WRIT OF EXECUTION IN
FORECLOSURE

TO THE LANE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on September 22, 2017.
A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the
Plaintiff:

FIRST HORIZON HOME LOANS A DIVISION OF FIRST TENNESSEE BANK
NATIONAL ASSOCIATION
c/o Robert Hakari, Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$276,913.44, plus post judgment interest at the statutory rate
2 of 9.0% per annum from September 22, 2017 to 12/20/17 in the amount of \$6,076.92, and
3 continuing with a per diem of \$68.28, currently totaling \$282,990.36.

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 October 2, 2006, the date of the Deed of Trust, and also the interest that the Defendant had
8 thereafter, in the real property described in *Exhibit 1*, APN/Parcel #: 0520823 and commonly
9 known as: 88109 8th Street, Veneta, OR 97487.

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 DEC 21 2017

16 By: Angie Jones
17 court clerk



18
19
20 **McCarthy & Holthus, LLP**

21 s/ Robert B. Hakari 12/20/17

22 _____
23 _ John Thomas OSB No. 024691
24 x Robert Hakari OSB No. 114082
25 920 SW 3rd Ave, 1st Floor
26 Portland, OR 97204
27 Phone: (971) 201-3200
28 Fax: (971) 201-3202
rhakari@mccarthyholthus.com
Of Attorneys for Plaintiff

EXHIBIT 1

THE WEST HALF OF LOT NO. ONE (1) AND ALL OF LOT NO. TWO (2) IN BLOCK NO. THIRTY (30) OF THE FIRST ADDITION TO VENETA, AS PLATTED AND RECORDED IN VOLUME SEVEN (7), PAGE THIRTY ONE (31) LANE COUNTY OREGON PLAT RECORDS, IN LANE COUNTY, OREGON.
ALSO THE SOUTH ½ OF THAT PART OF VACATED HUNTER STREET ADJOINING THERETO. EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY:
THE EAST 70 FEET OF THE WEST ½ OF LOT 1, BLOCK 30, FIRST ADDITION TO VENETA, AS PLATTED AND RECORDED IN BOOK 7, PAGE 31, LANE COUNTY OREGON PLAT RECORDS, IN LANE COUNTY, OREGON.
ALSO EXCEPTING: THE SOUTH ½ OF THAT PART OF VACATED HUNTER STREET ADJOINING THE EAST 70 FEET OF THE WEST ½ OF LOT 1 ON THE NORTH. IN LANE COUNTY, OREGON.

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

FIRST HORIZON HOME LOANS A
DIVISION OF FIRST TENNESSEE BANK
NATIONAL ASSOCIATION,

Plaintiff,

v.

LAURA A. FOUMAL; SHAWN D. STARR;
THE UNKNOWN HEIRS AND DEVISEES
OF ARTHUR J. HAMREN; LIBERTY
BANK; NATIONAL CHRISTIAN
ORGANIZATION FOR PROPERTY
RESCUE; PACIFIC CONTINENTAL BANK;
AMERICAN EXPRESS CENTURION
BANK; RIVERWALK HOLDINGS LTD;
B2PW PARTNERS, LLC; NATIONAL
COLLEGIATE STUDENT LOAN TRUST
2004-1; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV19388

GENERAL JUDGMENT OF
FORECLOSURE

I.

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

a. Defendants LAURA A. FOUMAL, SHAWN D. STARR, THE UNKNOWN HEIRS AND DEVISEES OF ARTHUR J. HAMREN, LIBERTY BANK, NATIONAL CHRISTIAN ORGANIZATION FOR PROPERTY RESCUE, AMERICAN EXPRESS CENTURION BANK, RIVERWALK HOLDINGS LTD, B2PW PARTNERS, LLC, NATIONAL COLLEGIATE STUDENT LOAN TRUST 2004-1, and 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,

1 protected persons, respondents as defined in ORS 125.005, minors, or in the military
2 service of the United States;

3 a. A Stipulated Settlement has been entered into between Plaintiff and Defendant
4 PACIFIC CONTINENTAL BANK. ("Stipulating Defendant") (collectively
5 Defaulted and Stipulating Defendants are referred to as "Defendants"). Said
6 Stipulated Settlement is attached as *Exhibit 1* to the Declaration of Amounts Due;

7 2.

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

9 a. The real property to which this judgment relates is located and situated in Lane County,
10 Oregon, and is commonly known as 88109 8th Street, Veneta, OR 97487 (the "Subject
11 Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
12 0520823.

13 b. Plaintiff is entitled to enforce the note dated 10/2/2006 and made, delivered, and executed by
14 Laura A. Fournal ("Borrower") to First Horizon Home Loan Corporation in the amount of
15 \$163,350.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession
16 and by indorsement set forth on the Note.

17 c. A deed of trust was made, executed, and delivered by Borrower on or about 10/2/2006 (the
18 "Deed of Trust"). The Deed of Trust was recorded on 10/5/2006 as Instrument No. 2006-
19 072589 in the official records of Lane County, Oregon. The Deed of Trust is a valid and
20 perfected lien against all of the Property for and securing the Amount Due. The lien of the
21 Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect
22 until issuance of a Sheriff's Deed.

23 d. The Borrower failed to make the payment that was due for 8/1/2008 and has not cured the
24 default. The amount of debt secured by the Deed of Trust that is now due and owing is
25 comprised of the following amounts (the "Amount Due"):

26 a) Unpaid principal balance: \$160,239.42
27

1	b) Prejudgment interest accruing from	\$95,397.16
2	7/1/2008 through 8/29/2017 and	
3	continuing until the entry of judgment	
	at the current Note rate of 6.500%:	
4	c) Additional amounts due under the	\$16,656.76
	terms of the loan:	
5	d) Attorney fees and costs:	\$4,535.10
6	e) Prevailing party fee (ORS 20.190	\$85.00
7	(2)(a)):	
8	Total:	\$276,913.44

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

12 e. The interest of the Defendants and any successor in interest in the Subject Property is
13 foreclosed and terminated excepting only any statutory right of redemption as provided by
14 Oregon law.

15 f. The Defendant is not entitled to a homestead exception as against Plaintiff's judgment.

16 g. All right, title and interest in the Subject Property that Defendant Laura A. Fournal had as of
17 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the Lane
18 County Sheriff's Office in accordance with the process for sale upon execution, and the
19 proceeds of sale shall be applied:

- 20 1) First, to the costs of sale not incurred by Plaintiff;
- 21 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
22 entry of judgment through the date of the sale and any incurred costs of sale;
- 23 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
24 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
25 such party or parties as they may establish their right thereto.

26 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
27 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from

1 the date of entry of judgment through the date of the sale and any incurred costs of sale.

2 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
3 Property from and after the date of the sale and is entitled to such remedies as are available at
4 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
5 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
6 possession to the purchaser immediately upon the purchaser's demand for possession.

7 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
8 entitled to any further or other judgment, including a judgment for the deficiency.

9 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
10 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
11 terminated.

12 l. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of
13 Trust are as follows:

14 1) Defendant SHAWN D. STARR may claim a junior interest in Subject Property by
15 virtue of a deed of trust recorded 07/10/2008 as Instrument No. 2008-040288 in the
16 official records of Lane County, Oregon, securing a promissory note in the amount of
17 \$65,000.00.

18 2) Defendant THE UNKNOWN HEIRS AND DEVISEES OF ARTHUR J. HAMREN
19 may claim an interest in Subject Property by virtue of a judgment entered on
20 03/10/2009 in the Circuit Court of Lane County, Case No. 160806675, in the amounts
21 of (a) \$276,225.85, (b) \$93,317.25, (c) \$90,968.09, (d) \$45,142.43, (e) \$111,150.37,
22 (f) \$81,960.74, (g) \$26,755.80, (h) \$25,000.00.

23 3) Defendant LIBERTY BANK may claim an interest in Subject Property by virtue of a
24 judgment entered on 03/24/2009 in the Circuit Court of Lane County, Case
25 No. 160827920, in the amounts of (a) \$392,972.77, (b) \$9,630.49, (c) \$406,610.78.

26 4) Defendant NATIONAL CHRISTIAN ORGANIZATION FOR PROPERTY
27 RESCUE may claim an interest in Subject Property by virtue of a judgment entered
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on 04/04/2009 in the Circuit Court of Lane County, Case No. 160909255, in the amount of \$75,500.00.

- 5) Defendant PACIFIC CONTINENTAL BANK may claim an interest in Subject Property by virtue of a judgment entered on 07/08/2009 in the Circuit Court of Lane County, Case No. 160910555, in the amount of \$33,131.06.
- 6) Defendant AMERICAN EXPRESS CENTURION BANK may claim an interest in Subject Property by virtue of a judgment entered on 09/16/2009 in the Circuit Court of Lane County, Case No. 160911518, in the amount of \$30,139.12.
- 7) Defendant RIVERWALK HOLDINGS LTD may claim an interest in Subject Property by virtue of a judgment entered on 11/09/2009 in the Circuit Court of Lane County, Case No. 160915012, in the amount of \$26,441.29.
- 8) Defendant SHAWN D. STARR may claim an interest in Subject Property by virtue of a judgment entered on 12/23/2009 in the Circuit Court of Lane County, Case No. 160912145, in the amount of \$71,125.17.
- 9) Defendant B2PW PARTNERS, LLC may claim an interest in Subject Property by virtue of a judgment entered on 01/04/2010 in the Circuit Court of Lane County, Case No. 160916888, in the amount of \$10,860.00.
- 10) Defendant NATIONAL COLLEGIATE STUDENT LOAN TRUST 2004-1 may claim an interest in Subject Property by virtue of a judgment entered on 01/05/2015 in the Circuit Court of Lane County, Case No. 161411387, in the amount of \$36,815.35.

Signed: 9/21/2017 09:08 AM



R. Curtis Conover, Circuit Court Judge

1 I hereby certify that the requirements of UTCR 5.100 have been satisfied. On 8/29/2017
2 the proposed General Judgment of Foreclosure was served on:

3 Farleigh Wada Witt
4 c/o Jason M. Ayres
5 121 SW Morrison Street, Suite 600
6 Portland, OR 97204
7 Attorney for PACIFIC CONTINENTAL BANK

8 No sooner than 3 days prior to submission to the court.

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

10 Each opposing party affected by this order or judgment has stipulated to the order or
11 judgment, as shown by each opposing party's signature on the document being
12 submitted.

13 Each opposing party affected by this order or judgment has approved the order or
14 judgment, as shown by signature on the document being submitted or by written
15 confirmation of approval sent to me.

16 I have served a copy of this order or judgment on all parties entitled to service and:

17 No objection has been served on me.

18 I received objections that I could not resolve with the opposing party despite
19 reasonable efforts to do so. I have filed a copy of the objections I received and
20 indicated which objections remain unresolved.

21 After conferring about objections, _____ agreed to independently file
22 any remaining objection.

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

24 An order of default is being requested with this proposed judgment.

25 Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
26 otherwise.

27 This is a proposed judgment that includes an award of punitive damages and notice
28 has been served on the Director of the Crime Victims' Assistance Section as required
by subsection (4) of this rule.

Other: _____

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1 **McCarthy & Holthus, LLP**

2 s/ Robert B. Hakari 9/5/2017

3 Robert B. Hakari, OSB No. 114082

4 Jeremy Clifford, OSB No. 142987

5 920 SW 3rd Ave, 1st Floor

6 Portland, OR 97204

7 Phone: (971) 201-3200

8 Fax: (971) 201-3202

9 rhakari@mccarthyholthus.com

10 Of Attorneys for Plaintiff

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