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**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF UMATILLA**

BRANCH BANKING AND TRUST  
COMPANY,

Plaintiff,

v.

THE ESTATE OF LAWRENCE WHINERY  
AND ROSEMARIE WHINERY; THE  
UNKNOWN HEIRS AND ASSIGNS OF  
LAWRENCE WHINERY AND  
ROSEMARIE WHINERY; THE UNKNOWN  
DEVISEES OF LAWRENCE WHINERY  
AND ROSEMARIE WHINERY;  
LAWRENCE WHINERY, JR.; MIKE  
WHINERY; TOM WHINERY; STEVE  
WHINERY; HOLLIE WHINERY and ALL  
OTHER PERSONS OR PARTIES  
UNKNOWN CLAIMING ANY RIGHT,  
TITLE, LIEN, OR INTEREST IN THE REAL  
PROPERTY COMMONLY KNOWN AS  
1013 EVANS STREET, MILTON  
FREEWATER, OR 97862,

Defendant.

Case No. 17CV17657

**WRIT OF EXECUTION**

TO THE UMATILLA COUNTY SHERIFF:

On October 26<sup>th</sup>, 2017, a General Judgment of Foreclosure and Declaration of Amount Due by Default was entered by the UMATILLA County Circuit Court, foreclosing Plaintiff's Deed of Trust and directing that the property subject to the Deed of Trust be sold to satisfy the unpaid debt due to Plaintiff.

The mailing address for the judgment creditor is: BRANCH BANKING AND TRUST COMPANY c/o Aldridge Pite, LLP, 111 SW Columbia St., Ste. 950, Portland, OR 97201.

1           The real property to be sold at public auction is commonly known as 1013 EVANS  
 2 STREET, MILTON FREEWATER, OR 97862 ("Subject Property"), and legally described as:  
 3           SOUTH HALF OF LOT 2, ALL LOT 3, BLOCK 86 ORIGINAL TOWN OF  
 4 FREEWATER, NOW CITY OF MILTON-FREEWATER, UMATILLA COUNTY, OREGON.

5           The total amount due and owing on the Judgment as of December 14, 2017;

6	Judgment:	Principal	\$97,962.62
7	Pre-Judgment:	Interest(5.000%, \$12.67/day)	\$114.03 (October 18, 2017 through
8			October 26, 2017)
9		Attorney Fees	\$2,472.50
10		Costs	\$4,573.96
11		Prevailing Party Fee	\$300.00
12	Post-Judgment:	Interest(5.000%, \$12.67/day)	\$620.83 (October 27, 2017 through
13			December 14, 2017)
14		Attorney Fees	\$260.00
15		Costs	\$0.00

16           **TOTAL: \$106,303.94**

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In the name of the State of Oregon, you are hereby directed to proceed to notice for sale and sell the Subject Property. After the sale, you are directed to issue a certificate of sale to the purchaser and file a return on the writ of execution, depositing the sale proceeds with the Court. Further, you are directed to execute, after the time for redemption has elapsed, a deed to the holder of the certificate of sale.



*dated: Dec. 15<sup>th</sup>, 2017*

*Johnson*  
\_\_\_\_\_  
*court clerk*

Presented by:  
ALDRIDGE PITE, LLP

*Chapman*

- Hunter Zook, OSB #095578
- Katie Riggs, OSB #095861
- Sarah Mathenia, OSB #120681
- Shannon K. Calt, OSB #121855
- Christina Andreoni, OSB #160875

*of Attorneys for Plaintiff*  
(858) 750-7600  
(503) 222-2260 (facsimile)  
orecourtnotices@aldridgepite.com

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FOR THE COUNTY OF UMATILLA

BRANCH BANKING AND TRUST  
COMPANY,

Plaintiff,

v.

THE ESTATE OF LAWRENCE WHINERY  
AND ROSEMARIE WHINERY; THE  
UNKNOWN HEIRS AND ASSIGNS OF  
LAWRENCE WHINERY AND  
ROSEMARIE WHINERY; THE UNKNOWN  
DEWISEES OF LAWRENCE WHINERY  
AND ROSEMARIE WHINERY;  
LAWRENCE WHINERY, JR.; MIKE  
WHINERY; TOM WHINERY; STEVE  
WHINERY; HOLLIE WHINERY and ALL  
OTHER PERSONS OR PARTIES  
UNKNOWN CLAIMING ANY RIGHT,  
TITLE, LIEN, OR INTEREST IN THE REAL  
PROPERTY COMMONLY KNOWN AS  
1013 EVANS STREET, MILTON  
FREEWATER, OR 97862,

Defendants.

Case No. 17CV17657

**GENERAL JUDGMENT OF  
FORECLOSURE AND DECLARATION OF  
AMOUNT DUE BY DEFAULT**

ORCP Rule 69

PURSUANT TO SB368, THIS IS A  
JUDGMENT OF FORECLOSURE AND DOES  
NOT CONSTITUTE A MONEY AWARD  
AGAINST ANY DEFENDANT

Based upon the Court's Order of Default against defendants The Estate of Lawrence  
Whinery and Rosemarie Whinery; The Unknown Heirs and Assigns of Lawrence Whinery and  
Rosemarie Whinery; The Unknown Devisees of Lawrence Whinery and Rosemarie Whinery;  
Lawrence Whinery, Jr.; Mike Whinery; Tom Whinery; Steve Whinery; Hollie Whinery; and All  
Other Persons or Parties Unknown Claiming Any Right, Title, Lien, or Interest in The Real  
Property Commonly Known as 1013 Evans Street, Milton Freewater, OR 97862, the records on  
file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by

1 Default by Plaintiff Branch Banking And Trust Company ("Plaintiff"),

2 **IT IS HEREBY ADJUDGED:**

3 1. Plaintiff's security interest in the real property located at 1013 Evans Street,  
4 Milton Freewater, OR 97862 ("Subject Property"), as evidenced by the Deed of Trust recorded  
5 March 30, 2010 in the official records of Umatilla County as instrument number 2010-5640070  
6 ("Deed of Trust"), is a viable first priority lien, superior to the interests of all the Defendants. All  
7 rights, claims, ownerships, liens, titles and demands of all Defendants are subsequent to  
8 Plaintiff's lien as created by the Note and Deed of Trust. The Subject Property is legally  
9 described as follows:

10 SOUTH HALF OF LOT 2, ALL LOT 3, BLOCK 86 ORIGINAL TOWN OF  
11 FREEWATER, NOW CITY OF MILTON-FREEWATER, UMATILLA COUNTY,  
12 OREGON.

13  
14 2. The Deed of Trust is foreclosed and upon entry of this Judgment the court  
15 administrator shall upon request of Plaintiff issue a writ of execution for the sale, by the Sheriff,  
16 in the manner provided by law;

17 3. Plaintiff has submitted a Declaration of Amount Due and is owed the total amount  
18 due under the Note and Deed of Trust and any future advances and/or fees that may be made or  
19 incurred pursuant to the terms of the Note and Deed of Trust up to the date of the execution sale.  
20 This amount is to be satisfied by sale of the Subject Property as directed under this Judgment;

21 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an  
22 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule  
23 68(C), which amount may be added to the outstanding obligation due and owing under the Note  
24 and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant to the Deed of  
25 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied  
26 by sale of the Subject Property as directed under this Judgment;

1           5.     Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule  
2 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing  
3 under the Note and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant  
4 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This  
5 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

6           6.     Plaintiff is owed the prevailing party fee of \$300.00, this amount to be satisfied by  
7 sale of the Subject Property as directed under this Judgment.

8           7.     The Sheriff shall make a return on the writ of execution to the court administrator  
9 along with the proceeds of the sale, if any. The proceeds of the sale, if any, shall be applied first  
10 toward the costs of the sale; then toward the satisfaction of Plaintiff's Judgment of Foreclosure  
11 awarded herein; and the surplus, if any, to the clerk of the court to be distributed to such party or  
12 parties as may establish their right thereto. The Defendants and all persons claiming through or  
13 under Defendants, whether lien claimants, judgment creditors, claimants arising under junior  
14 mortgages or deeds of trust, purchasers, encumbrances or otherwise, shall be barred and  
15 foreclosed from all rights, claims, interest or equity of redemption in the Subject Property and  
16 every part of the Subject Property when the time for redemption has elapsed;

17           8.     Plaintiff or any other party to this action may become a purchaser at the  
18 foreclosure sale, and such purchaser shall be immediately let into possession of the subject  
19 property, until redemption of the property, if any. The purchaser at the foreclosure sale or any  
20 successor in interest may apply to this Court for a writ of assistance to gain possession of the  
21 subject property if Defendants or any other party or person refuses to surrender possession;

22                                   DECLARATION OF AMOUNT DUE BY DEFAULT

23                                   (PURSUANT TO SB 368, THIS IS A JUDGMENT OF FORECLOSURE AND DOES NOT  
24                                   CONSTITUTE A MONEY AWARD AGAINST ANY DEFENDANT)

25           1.     The amount of the judgment is \$97,962.62  
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- 2. Simple interest at the variable rate currently at 5.000% (\$12.67 *per diem*) from October 17, 2017 through the date of sale.
- 3. Attorney fees of \$2,472.50, plus \$260.00, through the date of sale.
- 4. Costs of \$4,573.96, plus costs accrued through the date of sale.
- 5. Prevailing party fee: \$300.00.

**IT IS SO ADJUDGED**



CERTIFIED TO BE A TRUE AND  
 CORRECT COPY OF THE ORIGINAL  
 Dated Dec. 15th, 2017  
 TRIAL COURT ADMINISTRATOR  
 By [Signature]  
 Court clerk

Signed 10/26/2017 12:45 PM  
  
 Christopher R. Brauer, Circuit Court Judge

**CERTIFICATE OF READINESS**

This proposed Order or Judgment is ready for judicial signature because:

- 1.  Each opposing party affected by this Order or Judgment has stipulated to the Order or Judgment, as shown by each opposing party's signature on the document being submitted.
- 2.  Each opposing party affected by this Order or Judgment has approved the Order or Judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.
- 3.  I have served a copy of this Order or Judgment on all parties entitled to service and:
  - a.  No objections have been served on me within that time frame;
  - b.  I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed with the Court a copy of the objections I received and indicated which objections remain unresolved;

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c.  After conferring about objections, [Opposing Party] agreed to independently file any remaining objection with the Court.

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

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

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

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

Presented By:  
ALDRIDGE PITE, LLP



Date: 10/20/2017

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Of Attorneys for Plaintiff