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

U.S. Bank National Association,

Plaintiff,

vs.

Jason M. Briggs; Portfolio Recovery Associates; Marilee Stewart; UNKNOWN PARTIES IN POSSESSION OR CLAIMING A RIGHT TO POSSESSION,

Defendants.

CASE NUMBER: 15CV33066

WRIT OF EXECUTION IN FORECLOSURE

TO: THE SHERIFF OF MARION COUNTY, OREGON:

1.

WHEREAS, on May 23, 2017, in the above-entitled Court, a General Judgment of Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding.

2.

NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby commanded to sell, in the manner prescribed by law for the sale of real property upon (subject to redemption, if applicable), all of the interest which the Defendant Jason M. Briggs ("Defendant") had on May 21, 2007, the date of the foreclosed Deed of Trust which was recorded on May 29, 2007, as Instrument No. Reel 2818, Page 127 in the official records of the Marion County Recorder's Office, and/or all of the interest which Defendants had thereafter, in the real property described in the Judgment to satisfy the Judgment as follows:

1 **Lender's Principal Judgment:**

2 Unpaid Principal Balance: \$139,779.10
3 Pre-Judgment Interest from April 1,
4 2014 to April 14, 2017, at 5.00%
5 (\$19.15 per diem): \$35,775.93
6 Lender's Fees and Costs: \$13,021.30
7 Attorney's Fees and Costs \$738.00

8 ***Total Judgment Entered: \$189,314.33***

9 **Additional Pre-Judgment Interest:**

10 Accrued Interest from April 15, 2017,
11 the day after the date set forth in the
12 Judgment through May 23, 2017, the
13 date of entry of the Judgment, at 5.00%
14 per annum (\$19.15 per diem): \$727.70

15 ***Total Judgment Entered Including
16 Additional Pre-Judgment
17 Interest: \$190,042.03***

18 3.

19 Additionally, Plaintiff is entitled to the continued accrual of post-judgment interest at the
20 legal rate of interest of 9% per annum, \$46.85 per diem, from May 24, 2017, to the date the real
21 property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus costs of
22 this writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

23 4.

24 The real property subject to this writ of execution is commonly known as 4652 Clark
25 Avenue NE, Keizer, OR 97303 ("Property") and described in Exhibit "1" attached hereto.

26 5.

27 The Judgment Creditor's name and address is:
28 U.S. Bank National Association
4801 Frederica Street
Owensboro, Kentucky 42301-7441

The Judgment Creditor's name and address for the purpose of this Writ is:

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U.S. Bank National Association
c/o Malcolm & Cisneros, ALC (Attention: Jennifer Yoon)
2112 Business Center Drive
Irvine, CA 92612
949-252-9400

THEREFORE, in the name of the State of Oregon, you are hereby commanded to seize and sell the Property, in the manner prescribed by law; or so much thereof as may be necessary to satisfy the Judgment, interest, fees, and costs.

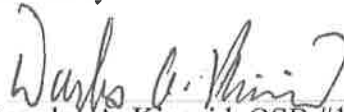
MAKE RETURN HEREOF within 60 days after you receive this Writ.

Signed: 6/27/2017 09:50 AM


J. Tolman, Court Clerk



Submitted by:


Douglas A. Kincaid, OSB #121032
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: dkincaid@mclaw.org

Dated: May 31, 2017

Exhibit “1”

LEGAL DESCRIPTION

Lot 4, Block 5, CARLHAVEN, in the County of Marion, State of Oregon.

[Faint, illegible text and a circular stamp or seal are visible in the bottom left corner of the page.]

REEL: 3985

PAGE: 255

August 25, 2017, 01:53 pm.

CONTROL #: 473073

State of Oregon
County of Marion

I hereby certify that the attached instrument was received and duly recorded by me in Marion County records:

FEE: \$ 46.00

BILL BURGESS
COUNTY CLERK

THIS IS NOT AN INVOICE.

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

U.S. Bank National Association,

Plaintiff,

vs.

Jason M. Briggs; Portfolio Recovery Associates; Marilee Stewart; UNKNOWN PARTIES IN POSSESSION OR CLAIMING A RIGHT TO POSSESSION,

Defendants.

CASE NUMBER: 15CV33066

GENERAL JUDGMENT OF FORECLOSURE AGAINST DEFENDANTS

- (1) Jason M. Briggs**
- (2) Marilee Stewart**
- (3) Portfolio Recovery Associates**

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, U.S. BANK NATIONAL ASSOCIATION ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that the ORDER OF DEFAULT has been entered against them on Plaintiff's Complaint, and that Plaintiff is entitled to entry of a General Judgment foreclosing Plaintiff's deed of trust against the property commonly known as 4652 Clark Avenue NE, Keizer, OR 97303 ("Property") and extinguishing any and all interest of the Defendants in the Property.

2.

The Court being fully advised; it is hereby
ORDERED AND ADJUDGED that:

1 3.

2 Plaintiff is the holder of that certain promissory note ("Note"), dated May 21, 2007, in the
3 amount of \$148,500.00, and executed by Jason M. Briggs.

4 4.

5 The Note is secured by that certain deed of trust ("Deed of Trust") executed on or about May
6 21, 2008, by Jason M. Briggs. The Deed of Trust was recorded on May 29, 2007, under the
7 recording number Book 2818, page 127 of the Official Records of Marion County, Oregon, against
8 the Property, which is legally described in Exhibit "1" attached hereto ("Property") and constitutes a
9 valid lien against the Property.

10 5.

11 Defendants Jason M. Briggs failed to comply with the terms of the Note and Deed of Trust
12 by failing to make the payments required by the terms of the Note and Deed of Trust. Pursuant to the
13 terms of the Note and Deed of Trust, Plaintiff declared all sums due and owing under the Note and
14 Deed of Trust immediately due and payable.

15 6.

16 The Deed of Trust is a valid first priority lien encumbering the Property, is superior to any
17 interest, lien, or claim of the Defendant and any other party in the Property, which are hereby
18 foreclosed and terminated, excepting only any statutory right of redemption to which the Defendant
19 may be entitled under Oregon law.

20 7.

21 A judgment of foreclosure in the amount of \$189,314.33 shall be granted in favor of Plaintiff,
22 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
23 Not a Money Award ("Amount Owed").

24 8.

25 The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the
26 satisfaction of Plaintiff's Amount Owed herein; and the surplus, if any to the Clerk of the Court to be
27 disbursed to such party or parties as may establish their right thereto.

1 9.

2 Plaintiff is entitled to recover its reasonable attorney's fees and all reasonable and necessary
3 costs and expenses incurred to enforcing the Note and Deed of Trust.

4 10.

5 Any increased interest or any such additional amounts as Plaintiff may advance for taxes,
6 assessments, municipal charges, and such other items as may constitute liens on the Property,
7 together with insurance and repairs necessary to prevent the impairment of the Property, together
8 with interest thereon from the date of payment may also be added to the Amount Owed and paid
9 from the proceeds from the sale of the Property.

10 11.

11 Defendants Jason M. Briggs, Marilee Stewart, Portfolio Recovery Associates, and all parties
12 claiming an interest in the Property as purchasers, encumbrancers, or otherwise, are forever barred
13 and foreclosed of all interests, liens, or claims in the Property and every portion thereof, excepting
14 only any statutory right of redemption provided by the laws of the State of Oregon.

15 12.

16 Defendant Jason M. Briggs is not entitled to a homestead exemption in the Property.

17 13.

18 Plaintiff may become purchaser at the Sheriff's Sale of the Property and may bid up to the
19 aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

20 14.

21 The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate
22 possession of the Property from and after the date of the sale, and is entitled to such remedies as are
23 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
24 writ of assistance, if Defendant, or any other party or person shall refuse to surrender possession of
25 the Property to the purchaser immediately on the purchaser's demand for possession.

26 15.

27 This Court shall retain jurisdiction to enforce all provisions of this General Judgment and to
28

1 enter such additional order, judgment, or decree necessary for the purchaser at the foreclosure sale to
2 obtain possession of the Property.

3 16.

4 Under the Note, there is now due and owing to Plaintiff, the following amounts, to be
5 hereinafter described as the Amount Owed.

6 17.

7 This suit does not constitute an attempt to collect the debt against Defendants. Rather, it is a
8 suit to execute upon the Property as security for the Amount Owed.

9 **DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD**

- 10 **1. Judgment Creditor:** U.S. BANK NATIONAL ASSOCIATION
11 Address: c/o MALCOLM ♦ CISNEROS,
12 A Law Corporation
13 2112 Business Center Drive, 2nd Floor
14 Irvine, California 92612
- 15 **Judgment Attorney:** Douglas A. Kincaid
16 Address: MALCOLM ♦ CISNEROS, A Law Corporation
17 2112 Business Center Drive, 2nd Floor
18 Irvine, California 92612
19 Telephone Number: (949) 252-9400
- 20 **2. Persons or Public Bodies Entitled to**
21 **a Portion the Judgment:** N/A
- 22 **3. Judgment Amount (exclusive of future**
23 **interest, attorney fees and costs):** \$188,576.33
- 24 **4. Pre-Judgment Interest:** Simple interest to accrue on \$139,779.10 from
25 April 15, 2017, to the date the Judgment is
26 entered into the Court's register at 5.00% per
27 annum, \$19.15 per diem.
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5. Post-Judgment Interest:

Simple interest to accrue on \$189,314.33, plus Pre-Judgment Interest from the day after the General Judgment is entered to the date upon which the Writ of Execution in Foreclosure is levied at the legal rate of interest or 9% per annum, whichever is greater.

6. Periodic accrual:

N/A

7. Attorney's Fees and Costs:

An award of \$738.00 in attorney's fees and costs is made.

Signed: 5/23/2017 01:40 PM



Circuit Court Judge Courtland Geyer

Submitted by:



Dated: May 11, 2017

Douglas A. Kincaid, OSB #121032
Attorneys for Plaintiff
MALCOLM ♦ CISNEROS, ALC
2112 Business Center Drive
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: dkincaid@mclaw.org

Exhibit “1”

LEGAL DESCRIPTION

Lot 4, Block 5, CARLHAVEN, in the County of Marion, State of Oregon.


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CERTIFICATE OF READINESS

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

- Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
- Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.
- I have served a copy of this order or judgment on each party entitled to service and:
 - No objection has been served on me.
 - I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
 - After conferring about objections, [role and name of objecting party] agreed to independently file any remaining objection.
- Service is not required pursuant to subsection (3) of UTCR 5.100, or by statute, rule, or otherwise (ORCP 9: Party in default for failure to appear).
- 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 (5) of UTCR 5.100.
- Other: _____

DATED: May 12, 2017

By: 

- Nathan F. Smith, OSB #120112
- Douglas A. Kincaid, OSB #121032
Attorneys for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
(949) 252-9400 (TELEPHONE)
(949) 252-1032 (FAX)
nathan@mclaw.org
dkincaid@mclaw.org