

JAN 16 2018

LINCOLN COUNTY SHERIFF'S OFFICE
NEWPORT, OR
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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINCOLN

NATIONSTAR MORTGAGE LLC dba
CHAMPION MORTGAGE COMPANY, a
limited liability company,

Plaintiff,

vs.

RONALD JOHN FROMM, solely in his
capacity as heir to the ESTATE OF ELMO G.
KIRK and as heir to the ESTATE OF
WANDA V. KIRK, deceased individuals;
JAYNE LARIE NICHOLSON, solely in her
capacity as heir to the ESTATE OF ELMO G.
KIRK and as heir to the ESTATE OF
WANDA V. KIRK, deceased individuals;
FRANCIS RAYMOND NICHOLSON, JR.,
solely in his capacity as heir to the ESTATE
OF ELMO G. KIRK and as heir to the
ESTATE OF WANDA V. KIRK, deceased
individuals; LONNIE J. FROMM, solely in his
capacity as heir to the ESTATE OF ELMO G.
KIRK and as heir to the ESTATE OF
WANDA V. KIRK, deceased individuals;
Julian Castro, solely in his capacity as
Secretary for UNITED STATES
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT.

Defendants.

CASE NO.: 17CV00872

WRIT OF EXECUTION

1 STATE OF OREGON)
2) ss.
3 County of Lincoln)

4 TO THE SHERIFF OF LINCOLN COUNTY OREGON:

5 WHEREAS, on October 9, 2017, by consideration of the Lincoln County Circuit Court,
6 there was entered a General Judgment of Foreclosure as to Elmo G. Kirk and Wanda V. Kirk.
7 Said General Judgment of Foreclosure was duly enrolled and docketed in the Court
8 Administrator's Office in said County on October 9, 2017; a true copy of the General Judgment
9 of Foreclosure is attached hereto and made a part hereof.

10 Judgment Creditor: NATIONSTAR MORTGAGE LLC dba
11 CHAMPION MORTGAGE COMPANY
12 Judgment Creditor Address: c/o Zieve Brodnax and Steele
13 121 Southwest Salmon Street, 11th Floor
14 Portland, OR 97204

15 NOW THEREFORE IN THE NAME OF THE STATE OF OREGON, you are
16 commanded to sell the real property as by said General Judgment of Foreclosure according to
17 law (subject to redemption) all of the interest that the borrower Elmo G. Kirk and Wanda V. Kirk
18 had on the 5th day of November 2008, the date of the Mortgage, and also all of the interest that
19 borrower had thereafter, in the real property described in the Judgment as:

20 A PARCEL OF LAND SITUATED IN SECTIONS 20 AND 29, TOWNSHIP 11
21 SOUTH, RANGE 10 WEST OF THE WILLAMETTE MERIDIAN IN LINCOLN
22 COUNTY, OREGON, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT
23 ON THE SOUTHEASTERLY LINE OF THE TRACT OF LAND CONVEYED TO
24 VIRGIL WARD BY DEED RECORDED JULY 31, 1950 IN BOOK 140, PAGE
25 252, DEED RECORDS FOR LINCOLN COUNTY, OREGON, SAID POINT
26 BEING 272.0 FEET NORTH, 272.0 FEET WEST AND 177.78 FEET NORTH
27 88°35' WEST FROM THE QUARTER SECTION CORNER BETWEEN SAID
28 SECTIONS 20 AND 29; THENCE SOUTH 88°35' EAST 177.78 FEET; THENCE
EAST 272.0 FEET; THENCE SOUTH 612.0 FEET TO THE NORTHEAST
CORNER OF THE AMUNDSEN TRACT DESCRIBED IN DEED RECORDED IN
BOOK 78, PAGE 517, DEED RECORDS FOR LINCOLN COUNTY, OREGON;
THENCE WEST ALONG THE NORTH LINE OF SAID AMUNDSEN TRACT,
400.0 FEET TO THE NORTHWEST CORNER OF SAID AMUNDSEN TRACT;
THENCE SOUTH TO THE NORTHERLY BANK OF ARNOLD SLOUGH;

WRIT OF EXECUTION -2-

Zieve, Brodnax & Steele, LLP
Amy F. Harrington, Esq.
One World Trade Center
121 Southwest Salmon St., 11th Floor
Portland, OR 97204
714-848-7920
aharrington@zbslaw.com

1 THENCE WESTERLY ALONG THE NORTHERLY BANK OF SAID ARNOLD
2 SLOUGH, 50.0 FEET, MORE OR LESS, TO A POINT THAT IS DUE SOUTH OF
3 THE POINT OF BEGINNING; THENCE NORTH TO THE POINT OF
4 BEGINNING.

5 ASSESSOR'S PARCEL NUMBER R162155

6 The street address of the real property to be levied upon is 516 Elk City Road Toledo, OR
7 97391.

8 The above referenced property shall be sold to satisfy the following sums: The principal
9 balance in the amount of \$153,816.78; pre-judgment interest in the amount of \$66,309.72,
10 additional pre-judgment interest in the amount of \$756.99; plus reasonable attorney fees and
11 costs in the amount of \$4,957.00; plus a prevailing party fee in the amount of \$300.00; plus post-
12 judgment interest in the amount of \$1,617.06; for a total of \$227,757.54 with interest to continue
13 to accrue at the rate of 9.00% per annum (\$55.76 per diem) until the date of sale; Thus,

14 THE TOTAL AMOUNT OF EXECUTION REQUESTED HEREON, STATED AS OF
15 THE DATE OF SUBMISSION (November 7, 2017) IS AS FOLLOWS:

16 Principal Balance: \$153,816.78

17 Interest to 8/30/17 \$66,309.72

18 Additional Pre-Judgment Interest

19 At 3.22% (\$19.41) 8/31/17 – 10/9/17 \$756.99

20 Attorney Fees and Costs: \$4, 957.00

21 Prevailing Party Fee \$300.00

22 Interest from 10/10/17 – 11/7/17 at

23 9.00% (\$55.76 per diem) \$1,1617.06

24 Total due as of November 7, 2017: \$227,757.54, with interest to continue to accrue at
25 9.00% (\$55.76 per diem) until the date of sale.

26 WRIT OF EXECUTION -3-

27 **Zieve, Brodnax & Steele, LLP**
28 Amy F. Harrington, Esq.
One World Trade Center
121 Southwest Salmon St., 11th Floor
Portland, OR 97204
714-848-7920
aharrington@zbslaw.com

1 The proceeds of sale shall be applied, delivered, and distributed according to ORS
2 18.950.



Signed: 11/17/2017 01:45 PM

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4
5
6 By: *St. Jell.*
7 **Circuit Court Clerk Steven Zalewski**

8 Submitted by:

9 *Amy F. Harrington*
10 Amy F. Harrington, OSB No. 123363
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26 WRIT OF EXECUTION -4-

27 **Zieve, Brodnax & Steele, LLP**
28 Amy F. Harrington, Esq.
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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINCOLN**

NATIONSTAR MORTGAGE LLC dba
CHAMPION MORTGAGE COMPANY, a
limited liability company,

Plaintiff,

vs.

RONALD JOHN FROMM, solely in his
capacity as heir to the ESTATE OF ELMO G.
KIRK and as heir to the ESTATE OF
WANDA V. KIRK, deceased individuals;
JAYNE LARIE NICHOLSON, solely in her
capacity as heir to the ESTATE OF ELMO G.
KIRK and as heir to the ESTATE OF
WANDA V. KIRK, deceased individuals;
FRANCIS RAYMOND NICHOLSON, JR.,
solely in his capacity as heir to the ESTATE
OF ELMO G. KIRK and as heir to the
ESTATE OF WANDA V. KIRK, deceased
individuals; LONNIE J. FROMM, solely in his
capacity as heir to the ESTATE OF ELMO G.
KIRK and as heir to the ESTATE OF
WANDA V. KIRK, deceased individuals;
Julian Castro, solely in his capacity as
Secretary for UNITED STATES
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT.

Defendants.

CASE NO. 17CV00872

**GENERAL JUDGMENT OF
FORECLOSURE BY DEFAULT
(WITHOUT MONEY AWARD –
JUDGMENT DOES NOT
CREATE A LIEN)**

///

1 Based upon the Motion for a General Judgment of Foreclosure filed by plaintiff,
2 Nationstar Mortgage LLC dba Champion Mortgage Company (“Plaintiff”) and against
3 defendants Ronald John Fromm, solely in his capacity as heir to the Estate of Elmo G. Kirk and
4 as heir to the Estate of Wanda V. Kirk (“Ronald”); Jayne Larie Nicholson, solely in her capacity
5 as heir to the Estate of Elmo G. Kirk and as heir to the Estate Of Wanda V. Kirk (“Jayne”);
6 Francis Raymond Nicholson, Jr., solely in his capacity as heir to the Estate of Elmo G. Kirk and
7 as heir to the Estate Of Wanda V. Kirk (“Francis”); Lonnie J. Fromm, solely in his capacity as
8 heir to the Estate of Elmo G. Kirk and as heir to the Estate of Wanda V. Kirk (“Lonnie” and
9 together with Ronald, Jayne, and Francis, “Heirs”); and Julian Castro, solely in his capacity as
10 Secretary for United States Department of Housing and Urban Development (“HUD”, together
11 with Heirs, collectively “Defendants”), and that Plaintiff has filed a Statement for Attorney Fees,
12 Costs, and Disbursements,

13 **IT IS HEREBY ORDERED AND ADJUDGED:**

14 **1.**

15 Plaintiff is awarded judgment against Defendants and all persons claiming through or
16 under Defendants, as purchasers, encumbrances, or otherwise, are forever foreclosed of all
17 interest, lien or claim in the real property described above and every portion thereof excepting
18 only any satisfactory right of redemption as Defendants, or any of them, may have therein.

19 **2.**

20 Writ of execution upon this General Judgment of Foreclosure shall issue.

21 **3.**

22 The Deed of Trust executed by Borrowers and recorded on November 24, 2008, in the
23 Lincoln County Recorder’s Office as Instrument number 2008-13451, is a valid mortgage lien
24 for the amount of Plaintiff’s judgment set forth in paragraph 1 against all the real property,
25 located in Lincoln County, Oregon commonly referred to as 516 Elk City Road Toledo, OR
26 97391, with a legal description as follows:

1 A parcel of land situated in Sections 20 and 29, Township 11 South, Range 10 West of
2 the Willamette Meridian in Lincoln County, Oregon, described as follows: Beginning at a
3 point on the Southeasterly line of the tract of land conveyed to Virgil Ward by deed
4 recorded July 31, 1950 in Book 140, Page 252, Deed Records for Lincoln County,
5 Oregon, said point being 272.0 feet North, 272.0 feet West and 177.78 feet North 88°35'
6 West from the quarter section corner between said Sections 20 and 29; thence South
7 88°35' East 177.78 feet; thence East 272.0 feet; thence South 612.0 feet to the Northeast
8 corner of the Amundsen tract described in deed recorded in Book 78, Page 517, Deed
9 Records for Lincoln County, Oregon; thence West along the North line of said Amundsen
10 tract, 400.0 feet to the Northwest corner of said Amundsen tract; thence South to the
11 Northerly bank of Arnold Slough; thence Westerly along the Northerly bank of said
12 Arnold Slough, 50.0 feet, more or less, to a point that is due South of the Point of
13 Beginning; thence North to the Point of Beginning.

14 4.

15 Said mortgage lien is superior to any interest, lien or claim of the Defendants in the real
16 property, and all other interest in the property gained by him thereafter, or so much interest as
17 may be necessary to satisfy the judgment of the Plaintiff shall be sold by the Sheriff of Lincoln
18 County, Oregon in the manner provided by law and in accordance with the practice of this Court.

19 5.

20 The proceeds of sale shall first be applied to the costs of sale; then toward the satisfaction
21 of Plaintiff's judgment awarded herein, calculated as of the date of sale; and any resulting surplus
22 shall then be tendered to the Clerk of the Court to be distributed to such other party or parties as
23 may establish their right thereto.

24 6.

25 Defendants and all persons claiming through or under Defendants, as purchasers,
26 encumbrances, or otherwise, are forever foreclosed of all interest, lien or claim in the real

1 property described above and every portion thereof excepting only any satisfactory right of
2 redemption as Defendants may have.

3 **7.**

4 Plaintiff or any other party to this suit or third party purchase may become the purchaser
5 at the sale of the real property. The purchaser is entitled to exclusive possession of the real
6 property from and after the date of sale and is entitled to such remedies as are available at law to
7 secure possession, including writ of assistance, if the Defendants and any other party or person
8 shall refuse to surrender possession to the purchaser immediately on the purchaser's demand for
9 possession.

10 **SECURED DEBT**

- 11
- 12 1. Judgment Creditor: Nationstar Mortgage LLC dba Champion Mortgage
13 Company, a limited liability company
14 c/o Zieve, Brodnax, & Steele, LLP
15 One World Trade Center
16 121 Southwest Salmon St., 11th Floor
17 Portland, OR 97204
18 714-848-7920
- 19 2. Judgment Creditor's Attorney: Amy F. Harrington
20 Zieve, Brodnax, & Steele, LLP
21 One World Trade Center
22 121 Southwest Salmon St., 11th Floor
23 Portland, OR 97204
24 714-848-7920
- 25 3. Person or public body entitled to any portion of money award herein: None

26 **4. Total Amount of Secured Debt:**

27 **a. Lenders' Principal and Interest**

28 Principal Balance	\$ 153,816.78
Accrued interest and fees on the principal balance through 8/30/17	\$ 66,309.72

1 Additional pre-judgment interest
2 to accrue from 8/30/17 to the date this
3 Judgment is entered, at the note rate
4 of 3.22% per month

5 Post-judgment interest to accrue on the
6 sum of: (1) the judgment amount in section
7 d, and (2) the additional pre-judgment interest
8 accruing from 8/30/17 to the date of judgment.
9 This post-judgment interest shall accrue at the
10 statutory rate of 9.0%, from the date judgment
11 is entered until the date of sale.

12 **Total Principal and Interest
13 Through 8/30/17 at the rate of
14 3.22% per month**

15 **\$ 220,126.50**

16 **b. Attorneys' Fees and Costs**

17 Attorney Fees \$2,900.00

18 Attorney Costs \$2,057.00

19 **Total Attorney Fees and Costs \$4,957.00**

20 **c. Prevailing Party Fee \$300.00**

21 **d. TOTAL SECURED DEBT (JUDGMENT) \$ 225,383.50**

22 ///

23 ///

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25 ///

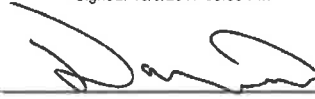
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1 Interest will continue to accrue on the judgment amount at the rate of Said Judgment is
2 meant to be for the purposes of foreclosure *only*, and is not intended to be a monetary judgment
3 against the Borrowers.

Signed: 10/9/2017 03:05 PM



Circuit Court Judge David V. Cramer

UTCR 5.100(2) CERTIFICATE OF READINESS

9 This proposed order or judgment is ready for judicial signature because:

- 10 1. Each party affected by this order of judgment has stipulated to the order or judgment,
11 as shown by each party's signature on the document being submitted.
- 12 2. Each party affected by this order of judgment has approved the order or judgment, as
13 shown by each party's signature on the document being submitted or by written
14 confirmation of approval sent to me.
- 15 3. I have served a copy of this order of judgment on each party entitled to service and:
16
17 a. No objection has been served on me.
18
19 b. I received objections that I could not resolve with a party despite reasonable
20 efforts to do so. I have filed a copy of the objections I have received and
21 indicated which objections remained unresolved.
- 22 c. After conferring about objections [role and name of objecting party] agreed to
23 independently file any remaining objection.
- 24 4. The relief sought is against an opposing party who has been found in default.
- 25 5. An order of default is being requested with this proposed judgment.

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

3 7. This is a proposed judgment that includes an award of punitive damages and notice as
4 been served on the Director of the Crime Victims' Assistance Section as required by
5 subsection (5) of the rule.

6 8. Other: _____
7

8 Submitted By:

9 /s/ Amy F. Harrington 10/9/17

10 Amy F. Harrington, OSB No. 123363

11 Attorney for Plaintiff

12 Nationstar Mortgage LLC dba Champion Mortgage Company, a limited liability company
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