

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,

Plaintiff,

vs.

CAROLINE M. ROYSTON; SENIOR ESTATES GOLF AND COUNTRY CLUB; OREGON AFFORDABLE HOUSING ASSISTANCE CORPORATION; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 17CV02795
Judge: Honorable Mary James

WRIT OF EXECUTION IN FORECLOSURE

TO THE MARION COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on September 20, 2017.

A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
c/o Robert Hakari, Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$150,638.88, plus post judgment interest at the statutory rate of 9.0% per annum from 9/20/2017 to 10/17/2017 in the amount of \$1,002.88, and continuing with a per diem of \$37.14, currently totaling \$151,641.76.

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 on

1 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
2 about January 4, 2011, the date of the Deed of Trust, and also the interest that the Defendant had
3 thereafter, in the real property described in attached *Exhibit 1*, APN/Parcel # R109893, and
4 commonly known as 2190 Umpqua Road, Woodburn, OR 97071.

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

10 **DATED:** ____ day of _____, 20__.

Signed: 10/24/2017 02:08 PM

Cristen Ballenger

Title Court Clerk



11
12
13 By: _____

14 **McCarthy & Holthus, LLP**

15 s/ Robert B. Hakari 10/17/2017

16 _____
_ John Thomas OSB No. 024691

17 x Robert Hakari OSB No. 114082

18 920 SW 3rd Ave, 1st Floor

19 Portland, OR 97204

20 Phone: (971) 201-3200

21 Fax: (971) 201-3202

22 rhakari@mccarthyholthus.com

23 Of Attorneys for Plaintiff

EXHIBIT 1

LOT 11, BLOCK 47, WOODBURN SENIOR ESTATE NO. 5, MARION COUNTY, OREGON. (PLAT
VOLUME 21, PAGE 46)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,

Plaintiff,

vs.

CAROLINE M. ROYSTON; SENIOR ESTATES GOLF AND COUNTRY CLUB; OREGON AFFORDABLE HOUSING ASSISTANCE CORPORATION; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 17CV02795
Judge: Honorable Mary James

GENERAL JUDGMENT OF FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. All Defendants were duly served with process and failed to appear; the default has been entered against Defendants, and it appearing that 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 Marion County, Oregon, and is commonly known as 2190 Umpqua Road, Woodburn, OR 97071 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R109893.
- b. Plaintiff is entitled to enforce the note dated January 4, 2011 and made, delivered, and executed by Caroline M. Royston ("Borrower") to Hyperion Capital Group, LLC in the

1 amount of \$119,170.00 (the "Note"). The Note was transferred to Plaintiff by delivery of
2 possession and by indorsement set forth on the Note.

3 c. A deed of trust was made, executed, and delivered by Borrower on or about January 4, 2011
4 (the "Deed of Trust"). The Deed of Trust was recorded on January 7, 2011 as Reel No. 3249
5 Page No. 383 in the official records of Marion County, Oregon. The Deed of Trust is a valid
6 and perfected lien against all of the Property for and securing the Amount Due. The lien of
7 the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in
8 effect until issuance of a Sheriff's Deed.

9 d. The Borrower failed to make the payment that was due for September 1, 2013 and has not
10 cured the default. The amount of debt secured by the Deed of Trust that is now due and
11 owing is comprised of the following amounts (the "Amount Due"):

12	a) Unpaid principal balance:	\$ 118,750.45
13	b) Prejudgment interest accruing from	\$ 19,481.21
14	8/1/2013 through 9/15/2017 and	
15	continuing until the entry of	
	judgment at the rate of 4.000%:	
16	c) Additional amounts due under the	\$ 8,099.38
	terms of the loan:	
17	d) Attorney fees and costs:	\$ 4,105.58
18	e) Prevailing party fee (ORS 20.190	\$ 85.00
19	(1)(a)):	
20	Total:	\$ 150,638.88

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

24 c. The interest of the Defendants and any successor in interest in the Subject Property is
25 foreclosed and terminated excepting only any statutory right of redemption as provided by
26 Oregon law.

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

1 g. All right, title and interest in the Subject Property that Defendant Caroline M. Royston had as
2 of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
3 Marion County Sheriff's Office in accordance with the process for sale upon execution, and
4 the proceeds of sale shall be applied:

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

11 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
12 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
13 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

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

24 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
25 Deed of Trust are as follows:

- 26 1) Defendant SENIOR ESTATES GOLF AND COUNTRY CLUB may claim an
27 interest in Subject Property by virtue of a lien recorded on 05/07/2012 in the Circuit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Court of Marion County, Instrument No. Book 3381, Page 480, in the amount of \$678.01.

2) Defendant OREGON AFFORDABLE HOUSING ASSISTANCE CORPORATION may claim a junior interest in Subject Property by virtue of a deed of trust recorded 05/07/2014 as Instrument No. Book 3602, Page 193 in the official records of Marion County, Oregon, securing a promissory note in the amount of \$35,000.00.

3) Defendant SENIOR ESTATES GOLF AND COUNTRY CLUB may claim an interest in Subject Property by virtue of a judgment entered on 06/11/2014 in the Circuit Court of Marion County, Case No. 13C22417, in the amount of \$2,224.39.

Signed: 9/19/2017 03:01 PM



Circuit Court Judge Mary M. James

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

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

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.

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.

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

No objection has been served on me.

I received objections that I could not resolve with the opposing 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, _____ agreed to independently file any remaining objection.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

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.

Other: _____

McCarthy & Holthus, LLP

s/ Robert B. Hakari 9/15/2017
_ John Thomas OSB No. 024691
x Robert Hakari OSB No. 114082
920 SW 3rd Ave, 1st Floor
Portland, OR 97204
Phone: (971) 201-3200
Fax: (971) 201-3202
rhakari@mccarthyholthus.com
Of Attorneys for Plaintiff

EXHIBIT 1

LOT 11, BLOCK 47, WOODBURN SENIOR ESTATE NO. 5, MARION COUNTY, OREGON. (PLAT
VOLUME 21, PAGE 46)