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MAR 07 2018

LINCOLN COUNTY SHERIFF'S OFFICE  
NEWPORT, OR  
18-0324

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

U.S. BANK NATIONAL ASSOCIATION,  
NOT IN ITS INDIVIDUAL CAPACITY BUT  
SOLELY AS TRUSTEE FOR NRZ PASS-  
THROUGH TRUST VIII,

Plaintiff,

vs.

WILLIAM STANLEY OUDERKIRK II,  
UNKNOWN HEIRS AND DEVISEES OF  
SHERIDEL OUDERKIRK; OCCUPANTS OF  
THE PROPERTY,

Defendants.

Case No.: 17CV14933

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE LINCOLN COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on January 8, 2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY  
BUT SOLELY AS TRUSTEE FOR NRZ PASS-THROUGH TRUST VIII  
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 \$160,176.36, plus post judgment interest at the statutory rate of 9.0% per annum from January 8, 2018 to January 24, 2018 in the amount of \$631.93, and continuing with a per diem of \$39.50, currently totaling \$160,808.29.

**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 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or

1 about 4/4/2006, the date of the Deed of Trust, and also the interest that the Defendant had  
2 thereafter, in the real property described as shown in *Exhibit 1*, having APN No. R380382, and  
3 commonly known as: 624 E Olive St, Newport, OR 97365.

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

Signed: 1/25/2018 01:10 PM



A handwritten signature in black ink, appearing to read "St. Zalewski".

Circuit Court Clerk Steven Zalewski

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11  
12 **McCarthy & Holthus, LLP**

13  
14 s/ Robert B. Hakari 1/24/18  
15 Robert Hakari OSB No. 114082  
16 920 SW 3rd Ave, 1st Floor  
17 Portland, OR 97204  
18 Phone: (971) 201-3200  
19 Fax: (971) 201-3202  
20 rhakari@mccarthyholthus.com  
21 Of Attorneys for Plaintiff  
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# EXHIBIT 1

**LOT 10, BLOCK 20, FREDRICKSBURG, IN THE CITY OF NEWPORT, COUNTY OF LINCOLN AND  
STATE OF OREGON.**

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

U.S. BANK NATIONAL ASSOCIATION,  
NOT IN ITS INDIVIDUAL CAPACITY  
BUT SOLELY AS TRUSTEE FOR NRZ  
PASS-THROUGH TRUST VIII,

Plaintiff,

vs.

WILLIAM STANLEY OUDERKIRK II;  
UNKNOWN HEIRS AND DEVISEES OF  
SHERIDEL OUDERKIRK; OCCUPANTS  
OF THE PROPERTY,

Defendants.

Case No.: 17CV14933

STIPULATED GENERAL JUDGMENT OF  
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion for Default Judgment and the stipulation of the parties herein. Defendants UNKNOWN HEIRS AND DEVISEES OF SHERIDEL OUDERKIRK and OCCUPANTS OF THE PROPERTY ("Defaulted Defendants") were duly served with process and failed to appear; the default has been submitted for against the Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, a protected persons, a respondent as defined in ORS 125.005, a minor, or in the military service of the United States. Plaintiff U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR NRZ PASS-THROUGH TRUST VIII, through its loan servicing agent Nationstar Mortgage LLC ("Plaintiff"), by and through its attorney of record Robert Hakari, and Defendant WILLIAM STANLEY OUDERKIRK II ("Borrower") ("Stipulating Defendant"), (collectively the "Parties"), (collectively Defaulted and Stipulating Defendants are known as "Defendants") have settled all

1 matters between themselves within this action and agreed to the entry of this Stipulated General  
2 Judgment.

3 2.

4 The Parties acknowledge that a dispute has arisen concerning the subject matter of this  
5 Complaint, and as a result, the Parties desire to fully resolve the dispute under the terms and  
6 conditions of this Judgment of Foreclosure.

7 **STIPULATED FINDINGS OF FACT:**

8 3.

9 **SUBJECT PROPERTY:** The real property to which this judgment relates is located and  
10 situated in Lincoln County, Oregon, and is commonly known as 624 E Olive St, Newport, OR  
11 97365, and legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.  
12 R380382.

13 4.

14 **THE NOTE:** Plaintiff is entitled to enforce the note dated 4/4/2006 and made, delivered,  
15 and executed by Defendant William Stanley Ouderkirk II in the amount of \$105,000.00 (the  
16 "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set  
17 forth on the Note

18 5.

19 **DEED OF TRUST:** A deed of trust was made, executed, and delivered by Defendant  
20 William Stanley Ouderkirk II & Sheridel Ouderkirk (collectively "Borrowers") on 4/4/2006 (the  
21 "Deed of Trust"). The Deed of Trust was recorded on 4/5/2006 as Instrument No. 200605201 in  
22 the official records of Lincoln County, Oregon.

23 6.

24 **LOAN:** Together the Deed of Trust and Note are herein referred to as the "Loan".

25 7.

26 **BORROWER'S DEFAULT AND ACCELERATION:** Borrowers failed to comply with  
27 the terms of the Loan, by failing to make payments as agreed. Under the provisions of the Loan,  
28

1 Plaintiff declared the entire balance of principal and interest due and payable.

2 8.

3 AMOUNTS DUE AND OWING: There is now due and owing the principal sum of  
4 \$96,926.96 together with accrued interest accruing at the rate of 7.0000% per annum thereafter,  
5 together with any other sums for expenses and fees due under the terms of the Loan or advanced  
6 for the protection of the Subject Property as provided in the Amount Due, *infra*.

7 9.

8 COSTS AND ATTORNEY FEES: The Note and Deed of Trust provide that Plaintiff is  
9 entitled to recover its reasonable attorney fees and all reasonable and necessary costs and  
10 expenses incurred in enforcing the Note and foreclosing the Deed of Trust.

11 10.

12 VALID FIRST LIEN: Plaintiff's lien is a valid first and prior lien against the Subject  
13 Property. Plaintiff is entitled to have its lien foreclosed and the Subject Property sold at a  
14 foreclosure sale by the Lincoln County Sheriff to satisfy any and all amounts due and owing  
15 upon the Deed of Trust and Note as adjudged below.

16 11.

17 BANKRUPTCY: WILLIAM STANLEY OUDERKIRK II received a discharge of his  
18 debt in the District of Oregon Bankruptcy Case No. 10-60059.

19 12.

20 SHERIDEL OUDERKIRK: Sheridel Ouderkirk is deceased. Her death certificate was  
21 recorded on 11/20/2014 as Instrument No. 2014-10336 in the official records of Lincoln County,  
22 Oregon

23 13.

24 OCCUPANTS OF THE PROPERTY: The Subject Property is unoccupied.

25 **OTHER TERMS**

26 14.

27 NO LEASE OR TENANCY: Stipulating Defendant shall not enter into any lease or  
28

1 renew any existing lease of the Subject Property and shall not allow any other party to occupy  
2 the Subject Property.

3 15.

4 COMPLETE AGREEMENT: The terms of this Stipulated Judgment contain the entire  
5 agreement between the Parties and supersede any and all other agreements, either oral or written,  
6 between the Parties.

7 **STIPULATED GENERAL JUDGMENT:**

8 16.

9 Premised upon Plaintiff's motion for Default Judgment and the records and files herein,  
10 which reveal that an order of default was submitted against the Defaulted Defendants, and upon  
11 the above stipulations of the Plaintiff and Stipulating Defendant, the Court being fully advised  
12 and finding good cause exists so that this General Judgment may be entered in this matter, IT IS  
13 HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

- 14 a. The amount of debt secured by the Deed of Trust that is now due and owing is comprised  
15 of the amounts below (the "Amount Due"):

16 <b>Total Judgment:</b>	<b>\$160,176.36</b>
17 Unpaid principal balance:	\$96,926.96
18 Prejudgment interest accruing from 19 9/19/2017 through 11/14/2017 and 20 continuing until the entry of judgment at the current Note rate of 7.00%:	\$35,865.58
21 Additional amounts due under the terms of 22 the loan:	\$22,956.14
23 Attorney fees and costs:	\$4,427.68
24 Prevailing party fee (ORS 20.190 (1)(b)):	\$85.00

25  
26 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from  
27 the date of entry of this judgment through the sale of the Subject Property at the rate of  
28

1 9.00% per annum.

2 b. Plaintiff's lien is a valid first lien upon the Subject Property and that lien is superior to  
3 any interest, lien or claim of the Defendants.

4 c. All right, title and interest in the Subject Property that the Stipulating Defendant had as of  
5 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the  
6 Lincoln County Sheriff's Office in accordance with the process for sale upon execution,  
7 and the proceeds of sale shall be applied:

8 1) First, to the costs of sale incurred by Plaintiff;

9 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of  
10 entry of judgment through the date of the sale and any incurred costs of sale;

11 3) Third, the surplus, if any, to the Defendants in the priority as their interest may  
12 appear, described *infra*, or to the clerk of the court to be distributed by the Court  
13 to such party or parties as they may establish their right thereto.

14 d. Plaintiff's lien is foreclosed and the Property shall be sold at a foreclosure sale by the  
15 Lincoln County Sheriff in the manner provided by law, and the proceeds thereof are to be  
16 applied first toward the costs of sale, then toward the satisfaction of Plaintiff's judgment  
17 awarded herein, and the surplus, if any, to such party or parties as may establish their  
18 right thereto.

19 e. Stipulating Defendant is not entitled to a homestead exemption.

20 f. Defendants, and all persons claiming by, through, or under them, as purchasers,  
21 encumbrancers, or otherwise, are adjudged inferior and subordinate to Plaintiff and are  
22 forever foreclosed of all interest, lien, or claim in the real property described above and  
23 every portion thereof, excepting only any statutory right of redemption as Defendant may  
24 have therein.

25 g. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
26 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing  
27 from the date of entry of judgment through the date of the sale and any incurred costs of  
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sale.

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

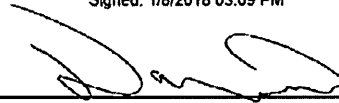
i. Due to the bankruptcy discharge, Plaintiff shall not be entitled to further execute upon any amounts of the money judgment remaining unsatisfied by the proceeds of the foreclosure sale nor be entitled to a deficiency judgment against the Borrowers for such deficient amounts.

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1 j. This Stipulated Judgment shall inure to the benefit of Plaintiff and Stipulating Defendant,  
2 their successors and/or assigns.

3 **IT IS SO STIPULATED:**

Signed: 1/8/2018 03:09 PM



Circuit Court Judge David V. Cramer

7  
8 **Stipulated to by:**

9 By: s/ Robert B. Hakari

By: \_\_\_\_\_

10 Dated: 5th day of January 2018  
11 John Thomas OSB No. 024691  
12 x Robert Hakari OSB No. 114082  
13 Jeremy Clifford OSB No. 142987  
14 920 SW 3rd Ave, 1st Floor  
15 Portland, OR 97204  
16 Phone: (971) 201-3200  
17 Fax: (971) 201-3202  
18 rhakari@mccarthyholthus.com  
19 Of Attorneys for Plaintiff

Dated: \_\_\_\_ day of \_\_\_\_\_, 2018  
William Stanley Ouderkirk II

20 **Approved as to form:**

21 By:

22 Dated: \_\_\_\_ day of \_\_\_\_\_, 2018  
23 Clifford G. Collard, OSB No. 771435  
24 380 SW 2nd Street  
25 PO Box 1510  
26 Newport, OR 97365  
27 Phone: 541 265-5400  
28 Fax: 541 265-7633  
Email: cliff@bartolduslaw.com  
Attorney for Stipulating Defendant William  
Stanley Ouderkirk II

1 j. This Stipulated Judgment shall inure to the benefit of Plaintiff and Stipulating Defendant,  
2 their successors and/or assigns.

3 **IT IS SO STIPULATED:**

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Stipulated to by:

By: \_\_\_\_\_

By: William S. Ouderkerk II

Dated: \_\_\_\_ day of \_\_\_\_\_, 2017  
\_ John Thomas OSB No. 024691  
\_ Robert Hakari OSB No. 114082  
\_ Jeremy Clifford OSB No. 142987  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204  
Phone: (971) 201-3200  
Fax: (971) 201-3202  
rhakari@mccarthyholthus.com  
Of Attorneys for Plaintiff

Dated: 8 day of Dec, 2017  
William Stanley Ouderkerk II

Approved as to form:

By: Cliff G. Collard

Dated: 8th day of December 2017  
Clifford G. Collard, OSB No. 771435  
380 SW 2nd Street  
PO Box 1510  
Newport, OR 97365  
Phone: 541 265-5400  
Fax: 541 265-7633  
Email: cliff@bartolduslaw.com  
Attorney for Stipulating Defendant William Stanley Ouderkerk II

# EXHIBIT 1

**LOT 10, BLOCK 20, FREDRICKSBURG, IN THE CITY OF NEWPORT, COUNTY OF LINCOLN AND  
STATE OF OREGON.**

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U.S. BANK NATIONAL ASSOCIATION,  
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BUT SOLELY AS TRUSTEE FOR NRZ  
PASS-THROUGH TRUST VIII,

Plaintiff,

vs.

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UNKNOWN HEIRS AND DEVISEES OF  
SHERIDEL OUDERKIRK; OCCUPANTS  
OF THE PROPERTY

Defendants.

Case No.: 17CV14933

CERTIFICATE OF READINESS

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

This proposed Stipulated General 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.

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

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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: \_\_\_\_\_

DATED: January 5, 2018

McCarthy & Holthus, LLP

By: s/ Robert B. Hakari  
Robert Hakari, Attorney