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LINN COUNTY
SHERIFFS OFFICE

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

OCWEN LOAN SERVICING, LLC,

Case No.: 17CV21548

Plaintiff,

vs.

WRIT OF EXECUTION IN
FORECLOSURE

DAVID J. DUNCAN; OCCUPANTS OF THE
PROPERTY,

Defendants.

TO THE LINN COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on January 24, 2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

OCWEN LOAN SERVICING, LLC
c/o Jeremy Clifford, Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$161,567.36, plus post judgment interest at the statutory rate of 9.0% per annum from January 24, 2018 to 2/22/2018 in the amount of \$1,155.32, and continuing with a per diem of \$39.84, currently totaling \$162,722.68.

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 about June 3, 2008, the date of the Deed of Trust, and also the interest that the Defendant had thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: 295283 and commonly known as: 2205 Cedar Street, Sweet Home, OR 97386.

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

6 DATED: ___ day of _____, 20__.

Signed: 2/27/2018 03:16 PM

Cynthia Mitchell

Title

Cynthia Mitchell, Administrative Authority

By: _____



11 **McCarthy & Holthus, LLP**

12 s/ Robert B. Hakari 2/22/2018

13 _____
14 _ John Thomas OSB No. 024691
15 x 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
22
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EXHIBIT 1

Beginning 300 feet East and 20 feet South of the Northwest corner of Section 5, Township 14 South, Range 1 East of the Willamette Meridian, in the City of Sweet Home, Linn County, Oregon; and running thence East 100 feet; thence South 100 feet; thence West 100 feet; thence North 100 feet to the point of beginning.

TOGETHER WITH a 5.00 foot even width strip of real property located in the Northwest 1/4 of the Northwest 1/4 of Section 5, Township 14 South, Range 1 East, Willamette Meridian, in the City of Sweet Home, Linn County, Oregon, more particularly described as follows:

Beginning at a point that is South 83° 17' 54" East, 171.89 feet and South 0° 30' 00" East, 20 feet from the Southwest corner of Section 32, Township 13 South, Range 1 East, Willamette Meridian, in the City of Sweet Home, Linn County, Oregon; running thence South 0° 30' 00" East, 100 feet to the true point of beginning; thence South 89° 58' 00" East, 100 feet; thence South 0° 30' 00" East, 5.00 feet; thence North 89° 58' 00" West, 100.00 feet; thence North 0° 30' 00" West, 5.00 feet to the true point of beginning.

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

OCWEN LOAN SERVICING, LLC,

Plaintiff,

vs.

DAVID J. DUNCAN; OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 17CV21548

GENERAL JUDGMENT OF
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion.

Defendants DAVID J. DUNCAN and OCCUPANTS OF THE PROPERTY ("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 Linn County, Oregon, and is commonly known as 2205 Cedar Street, Sweet Home, OR 97386 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 295283.

1 b. Plaintiff is entitled to enforce the note dated June 3, 2008 and made, delivered, and executed
2 by DAVID J. DUNCAN to NETMORE AMERICA, INC. in the amount of \$128,000.00 (the
3 "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement
4 set forth on the Note.

5 c. A deed of trust was made, executed, and delivered by Defendant DAVID J. DUNCAN on or
6 about June 5, 2008 (the "Deed of Trust"). The Deed of Trust was recorded on June 10, 2008
7 as Instrument No. 2008-11727 in the official records of Linn County, Oregon. The Deed of
8 Trust is a valid and perfected lien against all of the Property for and securing the Amount
9 Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and
10 shall remain in effect until issuance of a Sheriff's Deed.

11 d. The Borrower failed to make the payment that was due for March 1, 2014 and has not cured
12 the default. The amount of debt secured by the Deed of Trust that is now due and owing is
13 comprised of the following amounts (the "Amount Due"):

14	a) Unpaid principal balance:	\$117,878.11
15	b) Prejudgment interest accruing from	
16	2/1/2014 through 1/23/2018 and	
17	continuing until the entry of	
18	judgment at the current Note rate of	
19	6.0%:	\$28,133.51
20	c) Additional amounts due under the	\$10,733.61
21	terms of the loan:	
22	d) Attorney fees and costs:	\$4,737.13
23	e) Prevailing party fee (ORS 20.190	\$85.00
24	(1)(a)):	
25	Total:	\$161,567.36

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

1 e. The interest of the Defendants and any successor in interest in the Subject Property is
2 foreclosed and terminated excepting only any statutory right of redemption as provided by
3 Oregon law.

4 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

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

9 1) First, to the costs of sale not incurred by Plaintiff;

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

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

15 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
16 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
17 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

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

Signed: 1/24/2018 12:33 PM



Circuit Court Judge, DeAnn L. Novotny

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

12 This proposed Judgment Of Foreclosure is ready for judicial signature because:

13 Each opposing party affected by this order or judgment has stipulated to the order or
14 judgment, as shown by each opposing party's signature on the document being
15 submitted.

16 Each opposing party affected by this order or judgment has approved the order or
17 judgment, as shown by signature on the document being submitted or by written
18 confirmation of approval sent to me.

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

20 No objection has been served on me.

21 I received objections that I could not resolve with the opposing party despite
22 reasonable efforts to do so. I have filed a copy of the objections I received and
23 indicated which objections remain unresolved.

24 After conferring about objections, _____ agreed to independently file
25 any remaining objection.

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

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

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

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

4 [] Other: _____

5 Dated: January 23, 2018 and submitted by:

6 **McCarthy & Holthus, LLP**

7 s/ Jeremy Clifford

8 Jeremy Clifford OSB No. 142987

9 920 SW 3rd Ave, 1st Floor

10 Portland, OR 97204

11 Phone: (971) 201-3200

12 Fax: (971) 201-3202

13 jclifford@mccarthyholthus.com

14 Of Attorneys for Plaintiff

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