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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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF GUY MCMILLAN ; JOAN A.
MCMILLAN, AS CLAIMING SUCCESSOR
TO THE ESTATE OF GUY MCMILLAN;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 17CV36669

WRIT OF EXECUTION IN
FORECLOSURE

TO THE LINCOLN COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on January 29, 2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST

c/o Jeremy Clifford
Attorney for Plaintiff

McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

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1 With the adjudicated amount due of \$205,342.20, plus post judgment interest at the statutory rate
2 of 9.0% per annum from January 29, 2018 to March 14, 2018 in the amount of \$2,227.82, and
3 continuing with a per diem of \$50.63, currently totaling \$207,570.02.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON,** you are
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
7 about November 16, 2007, the date of the Deed of Trust, and also the interest that the Defendant
8 had thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: R129300
9 and commonly known as: 1339 SE Blue Spruce Ln, Waldport, OR 97394.

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

Signed 3/14/2018 11:27 AM



St. Jell.

Circuit Court Clerk Steven Zalewski

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1 Dated: 3/12/2018 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ Jeremy Clifford

-
- 4 _ John Thomas OSB No. 024691
 - 5 _ Robert Hakari OSB No. 114082
 - 6 _ Andreanna Smith OSB No. 131336
 - 7 _ Brady Godbout OSB No. 132708
 - 8 _ Bryan Kidder OSB No. 140459
 - 9 x Jeremy Clifford OSB No. 142987
 - 10 _ Michael Scott OSB No. 973947
- 920 SW 3rd Ave, 1st Floor
 8 Portland, OR 97204
 9 Phone: (971) 201-3200
 10 Fax: (971) 201-3202
 11 jclifford@mccarthyholthus.com
 12 Of Attorneys for Plaintiff

That portion of the Northwest quarter of Section 28, Township 13 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, more particularly described as follows:

Beginning at the intersection of the west line of Section 28 and the north right of way line of the Alsea Highway; thence North on said Section line 290 feet to the southwest corner of tract conveyed to Ramon L. Pankey, et ux, by Deed recorded February 19, 1963, in Book 232, page 111, Deed Records; thence South 87° 57' East 93.07 feet, more or less, along the south line of the Pankey tract to its intersection with the west line of the tract conveyed to Phillip Lettenmaier, et ux, by Deed recorded September 21, 1960 in Book 211, page 259, Deed Records; thence South along the west line of said Lettenmaier tract to its southwest corner; thence South 1° 02' West 100.01 feet along the west line of Parcel 2 of Deed to George L. North, et ux, recorded July 14, 1951, in Book 146, page 432, Deed Records; thence South 0° 4' East 50 feet, more or less, along the west line of Parcel 1 of said Deed to George L. North, et ux, to its intersection with the north line of tract conveyed to T. Gaither by Deed recorded October 16, 1962, in Book 229, page 287, Deed Records; thence North 87° 57' West 86.61 feet, more or less, to the northwest corner of said Gaither tract; thence South along the west line of said Gaither tract to the north right of way line of the Alsea Highway; thence West along said right of way line to the point of beginning.

EXCEPTING THEREFROM that tract described in contract between Russell T. Hill, et ux, and George W. Whitman, et ux, recorded April 7, 1977, in Book 73, page 1926, Film Records for Lincoln County, Oregon.

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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF GUY MCMILLAN ; JOAN A.
MCMILLAN, AS CLAIMING
SUCCESSOR TO THE ESTATE OF GUY
MCMILLAN; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 17CV36669

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

Defendants THE UNKNOWN HEIRS AND DEVISEES OF GUY MCMILLAN ; JOAN A.
MCMILLAN, AS CLAIMING SUCCESSOR TO THE ESTATE OF GUY MCMILLAN;
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:

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- a. The real property to which this judgment relates is located and situated in Lincoln County, Oregon, and is commonly known as 1339 SE Blue Spruce Ln, Waldport, OR 97394 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R129300.
- b. Plaintiff is entitled to enforce the note dated November 16, 2007 and made, delivered, and executed by GUY MCMILLAN to GMAC MORTGAGE, LLC DBA DITECH in the amount of \$160,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.
- c. A deed of trust was made, executed, and delivered by Defendant GUY MCMILLAN on or about November 16, 2007 (the "Deed of Trust"). The Deed of Trust was recorded on December 10, 2007 as Instrument No. 200716994 in the official records of Lincoln County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- d. The Borrower failed to make the payment that was due for February 1, 2014 and has not cured the default. The amount of debt secured by the Deed of Trust that is now due and owing is comprised of the following amounts (the "Amount Due"):

a) Unpaid principal balance:	\$146,705.25
b) Prejudgment interest accruing from 1/1/2014 through 1/22/2018 and continuing until the entry of judgment at the current Note rate of 7.125%:	\$42,412.27
c) Additional amounts due under the terms of the loan:	\$11,296.78
d) Attorney fees and costs:	\$4,842.90
e) Prevailing party fee (ORS 20.190 (1)(a)):	\$85.00
Total:	\$205,342.20

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

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

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

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

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

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

i. 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.

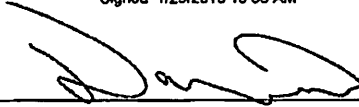
j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be entitled to any further or other judgment, including a judgment for the deficiency.

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

Signed 1/29/2018 10:55 AM



Circuit Court Judge David V. Cramer

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.

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.

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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 22, 2018 and submitted by:

McCarthy & Holthus, LLP

s/ Jeremy Clifford

— John Thomas OSB No. 024691

x Jeremy Clifford OSB No. 142987

920 SW 3rd Ave, 1st Floor

Portland, OR 97204

Phone: (971) 201-3200

Fax: (971) 201-3202

jclifford@mccarthyholthus.com

Of Attorneys for Plaintiff

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