

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 KLAMATH**

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.. AS TRUSTEE
ON BEHALF OF CWABS ASSET-BACKED
CERTIFICATES TRUST 2007-2,

CASE NUMBER: 1501251CV

Plaintiff,

WRIT OF EXECUTION IN FORECLOSURE

vs.

DONALD RIESCH, an individual; STATE
OF OREGON, a government entity;
VANDERBILT MORTGAGE AND
FINANCE, INC., a corporation;
MIDLAND FUNDING, LLC, a corporation;
and all other persons, parties, or occupants
unknown claiming any legal or equitable
right, title, estate, lien, or interest in the real
property described in the complaint herein,
adverse to Plaintiff s title, or any cloud on
Plaintiff s title to the Property.

Defendants.

TO: THE SHERIFF OF KLAMATH COUNTY, OREGON:

1.

WHEREAS, on February 27, 2018, in the above-entitled Court, a General Judgment of
Foreclosure (“Judgment”) was entered and docketed in the above-entitled and numbered proceeding

///
///

2.

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 upon (subject to redemption, if applicable), all of the interest which the Defendants DONALD RIESCH, VANDERBILT MORTGAGE AND FINANCE, INC., MIDLAND FUNDING, LLC, (“Defendants”) had on January 10, 2007, the date of the foreclosed Deed of Trust which was recorded on January 17, 2007, as Instrument No. 2007-000873 in the official records of the Klamath County Recorder’s Office, and/or all of the interest which Defendants had thereafter, in the real property described in the Judgment to satisfy the Judgment as follows:

Lender’s Principal Judgment:

Unpaid Principal Balance:	\$137,435.86
Pre-Judgment Interest from July 1, 2009 to January 26, 2018, the date set forth in the Judgment at 8.375%, per annum, (\$30.05 per diem):	\$96,578.10
Lender’s Fees and Costs:	\$13,236.81
Attorney’s Fees and Costs:	\$4,346.00
	\$251,596.77

Total Judgment Entered:

Additional Pre-Judgment Interest:

Accrued Interest from January 27, 2018 the day after the date set forth in the Judgment through February 27, 2018, the date of entry of the Judgment, at 8.375%, per annum (\$30.05 per diem): \$931.55

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

The Judgment Creditor's name and address for the purpose of this Writ is:
The Bank of New York Mellon Trust Company, N.A. as trustee on behalf of CWABS Asset-Backed
Certificates Trust 2007-2
c/o Malcolm & Cisneros, ALC (Attention: Nathan F. Smith)
2112 Business Center Drive
Irvine, CA 92612
949-252-9400

THEREFORE, in the name of the State of Oregon, you are hereby commanded to seize and
sell the Property, in the manner prescribed by law; or so much thereof as may be necessary to satisfy
the Judgment, interest, fees, and costs.

MAKE RETURN HEREOF within 60 days after you receive this Writ.

3-14-18



Submitted by:

Dated: 3/7/18

Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

EXHIBIT "1"

LEGAL DESCRIPTION

Lots 19 and 20 in Block 2, JUNIPER ACRES, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

1 County of KLAMATH)
 2 STATE OF OREGON)
 3 I hereby certify that the within is a
 4 true and correct copy and the whole
 5 of the original.
 6 Clerk of Court
 7 By Amy Hammerich
 8 Date 2/15/18

9 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**
 10 **FOR THE COUNTY OF KLAMATH**

11 THE BANK OF NEW YORK MELLON
 12 TRUST COMPANY, N.A., AS TRUSTEE
 13 ON BEHALF OF CWABS ASSET-BACKED
 14 CERTIFICATES TRUST 2007-2,

CASE NUMBER: 1501251CV

**GENERAL JUDGMENT OF
 FORECLOSURE AGAINST:**

Plaintiff,

vs.

- 1) DONALD RIESCH,
- 2) VANDERBILT MORTGAGE
AND FINANCE, INC.,
- 3) MIDLAND FUNDING, LLC,

15 DONALD RIESCH, an individual; STATE
 16 OF OREGON, a government entity;
 17 VANDERBILT MORTGAGE AND
 18 FINANCE, INC., a corporation; MIDLAND
 19 FUNDING, LLC, a corporation; and all other
 20 persons, parties, or occupants unknown
 21 claiming any legal or equitable right, title,
 22 estate, lien, or interest in the real property
 23 described in the complaint herein, adverse to
 24 Plaintiff's title, or any cloud on Plaintiff's title
 25 to the Property.

Defendants.

1.

26 THIS MATTER, coming on regularly before the Court, and it appearing from the record
 27 herein that Plaintiff, The Bank of New York Mellon Trust Company, N.A., as trustee on behalf of
 28 CWABS Asset-Backed Certificates Trust 2007-2 ("Plaintiff"), filed its Complaint for Foreclosure of
 Deed of Trust; that Defendants DONALD RIESCH, VANDERBILT MORTGAGE AND FINANCE,
 INC., and MIDLAND FUNDING, LLC, ("Defendants") were duly served with the Summons and

1 Complaint as required by law; that Defendants failed to appear, that and order of default has been
2 entered against them on Plaintiff's Complaint, and that Plaintiff is entitled to entry of a General
3 Judgment foreclosing Plaintiff's deed of trust against the property commonly known as 23417
4 Cherrywood Lane, Chiloquin , OR 97624 ("Property") and extinguishing any and all interest of the
5 Defendants in the Property.

6 2.

7 The Court being fully advised; it is hereby
8 ORDERED AND ADJUDGED that:

9 3.

10 Plaintiff is the holder of that certain promissory note ("Note"), dated January 10, 2007, in the
11 amount of \$138,600.00, and executed by MARGARET RIESCH and DONALD RIESCH.

12 4.

13 The Note is secured by that certain deed of trust ("Deed of Trust") dated January 10, 2007
14 and executed by MARGARET RIESCH and DONALD RIESCH. The Deed of Trust was recorded
15 on January 17, 2007 under the recording number 2007-000873 of the Official Records of Klamath
16 County, Oregon, against the Property, which is legally described in Exhibit "1" attached hereto,
17 ("Property") and constitutes a valid lien against the Property.

18 5.

19 The terms of the Note and Deed of Trust are in breach, therefore, Plaintiff has now declared
20 all sums due and owing under the Note and Deed of Trust as immediately due and payable.

21 6.

22 The Deed of Trust is a valid first priority lien encumbering the Property, is superior to any
23 interest, lien, or claim of the Defendants and any other party in the Property, which are hereby
24 foreclosed and terminated, excepting only any statutory right of redemption to which the Defendants
25 may be entitled under Oregon law.

26 7.

27 A judgment of foreclosure in the amount of \$251,596.77 shall be granted in favor of Plaintiff,
28 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –

1 Not a Money Award (“Amount Owed”).

2 8.

3 The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the
4 satisfaction of Plaintiff’s Amount Owed herein; and the surplus, if any to the Clerk of the Court to be
5 disbursed to such party or parties as may establish their right thereto.

6 9.

7 Plaintiff is entitled to recover its reasonable attorney’s fees and all reasonable and necessary
8 costs and expenses incurred to enforcing the Note and Deed of Trust.

9 10.

10 Any increased interest or any such additional amounts as Plaintiff may advance for taxes,
11 assessments, municipal charges, and such other items as may constitute liens on the Property,
12 together with insurance and repairs necessary to prevent the impairment of the Property, together
13 with interest thereon from the date of payment may also be added to the Amount Owed and paid
14 from the proceeds from the sale of the Property.

15 11.

16 Defendants and all parties claiming an interest in the Property as purchasers, encumbrancers,
17 or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and
18 every portion thereof, excepting only any statutory right of redemption provided by the laws of the
19 State of Oregon.

20 12.

21 Defendants are not entitled to a homestead exemption in the Property.

22 13.

23 Plaintiff may become purchaser at the Sheriff’s Sale of the Property and may bid up to the
24 aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

25 14.

26 The purchaser of the Property at the Sheriff’s Sale is entitled to exclusive and immediate
27 possession of the Property from and after the date of the sale, and is entitled to such remedies as are
28 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a

1 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
2 possession of the Property to the purchaser immediately on the purchaser`s demand for possession.

3 15.

4 This Court shall retain jurisdiction to enforce all provisions of this General Judgment and to
5 enter such additional order, judgment, or decree necessary for the purchaser at the foreclosure sale to
6 obtain possession of the Property.

7 16.

8 Under the Note, there is now due and owing to Plaintiff, the following amounts, to be
9 hereinafter described as the Amount Owed.

10 17.

11 This suit does not constitute an attempt to collect the debt against Defendants. Rather, it is a
12 suit to execute upon the Property as security for the Amount Owed.

13 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**

14 **(Pursuant to Senate Bill 368)**

15 18.

16 Under the terms of the Deed of Trust and the Note dated January 10, 2007, in the original
17 principal amount of \$138,600.00, there is now due and owing the following amounts, to be
18 hereinafter described as the Amount Due:

19
20 **DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD**

21 1. Judgment Creditor:	The Bank of New York Mellon Trust Company,
22 Address:	N.A.. as trustee on behalf of CWABS Asset-
23	Backed Certificates Trust 2007-2
24	c/o MALCOLM ♦ CISNEROS,
25	A Law Corporation
26	2112 Business Center Drive, 2 nd Floor
27	Irvine, California 92612
28	

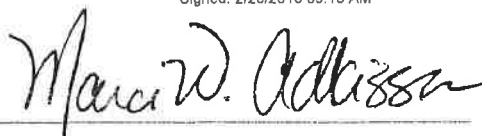
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. Attorney's Fees and Costs:

An award of \$4,346.00 in attorney's fees and costs is made.

Attorney Fees	\$1,770.00
Litigation Guarantee	\$798.00
Filing Cost	\$531.00
Recording Cost	\$47.00
Process Service Cost	\$675.00
Mediation Cost	\$525.00
Total	\$4,346.00

Signed: 2/23/2018 09:16 AM

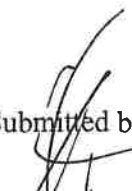


Circuit Court Judge Marci W. Adkisson

Submitted by:

Dated:

2/21/18



 Nathan F. Smith, OSB #120112
 Attorney for Plaintiff
 MALCOLM ♦ CISNEROS, A Law Corporation
 2112 Business Center Drive, Second Floor
 Irvine, California 92612
 Phone: (949) 252-9400
 Fax: (949) 252-1032
 Email: nathan@mclaw.org

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

CERTIFICATE OF READINESS

This proposed Order or Judgment is ready for judicial signature because:

- Service is not required pursuant to subsection (3) of UTCR 5.100, or by statute, rule or otherwise.
- 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.
- 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, [role and name of opposing party] agreed to independently file any remaining objection.
- This is a proposed judgment that includes an award of punitive damages.

DATED: February 22, 2018


By: 
Betsy Chavarria
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
(949) 252-9400 (TELEPHONE)
(949) 252-1032 (FAX)

EXHIBIT 1

LEGAL DESCRIPTION

Lots 19 and 20 in Block 2, JUNIPER ACRES, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.