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LANE COUNTY J.O. CIVIL
03-19-18 RPS 411

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

BANK OF AMERICA, N.A.,

CASE NUMBER: 16CV02163

Plaintiff,

vs.

WRIT OF EXECUTION IN FORECLOSURE

MICHAEL A. CARROLL, an individual; 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 LANE COUNTY, OREGON:

1.

WHEREAS, on January 20, 2017, 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

1 redemption, if applicable), all of the interest which the Defendant MICHAEL A. CARROLL
2 ("Defendant") had on June 16, 2011, the date of the foreclosed Deed of Trust which was recorded on
3 June 21, 2011, as Instrument No. 2011-028171 in the official records of the Lane County Recorder's
4 Office, and/or all of the interest which Defendant had thereafter, in the real property described in the
5 Judgment to satisfy the Judgment as follows:

6
7 **Lender's Principal Judgment:**

8 Unpaid Principal Balance: \$163,600.85

9 Pre-Judgment Interest from January 1,
10 2014, to December 16, 2016, the date
11 set forth in the Judgment at 4.375%, per

12 annum, (\$19.556 per diem): \$22,665.48

13 Lender's Fees and Costs: \$22,632.14

14 Attorney's Fees and Costs: \$4,844.50

15
16 ***Total Judgment Entered:*** \$213,742.93

17
18 **Additional Pre-Judgment Interest:**

19 Accrued Interest from December 17,
20 2016 the day after the date set forth in
21 the Judgment through January 20, 2017,
22 the date of entry of the Judgment, at

23 4.375%, per annum (\$19.556 per diem): \$684.46

24
25 ***Total Judgment Entered Including***

26 ***Additional Pre-Judgment***

27 ***Interest:*** \$214,427.43

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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.

November 17, 2017

By: Angela Jones
court clerk

Submitted by: [Signature]



Dated: 11/2/17

Nathan E. 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

Lot 2 in Block 3 of POPE AND TALBOT, INC. ADDITION TO CITY OF OAKRIDGE, as platted and recorded in Book 14, Page 2, Lane County Oregon Plat Records, in Lane County, Oregon.

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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LANE**

BANK OF AMERICA,

Plaintiffs,

vs.

**MICHAEL A. CARROLL, an individual, 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.**

Defendant.

CASE NUMBER: 16CV02163

**STIPULATED GENERAL JUDGMENT OF
FORECLOSURE**

Plaintiff BANK OF AMERICA, ("Plaintiff"), by and through its attorney of record, Steve Bonfiglio of Malcolm ♦ Cisneros, A Law Corporation, and Stipulating Defendant Michael A. Carroll, hereby stipulate as follows:

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1.

Plaintiff filed the Complaint for Judicial Foreclosure and Breach of Promissory Note on January 26, 2016 in the Circuit Court of the State of Oregon for the County of Lane ("Complaint").

2.

Defendant Michael Carroll ("Defendant Carroll") is the sole record owner of the property located at 48327 HILLS STREET, OAKRIDGE, OREGON 97463 located in Lane County, Oregon ("Property"). The legal description of this property is as follows:

LOT 2 IN BLOCK 3 OF POPE AND TALBOT, INC., ADDITION TO CITY OF OAKRIDGE, AS PLATTED AND RECORDED IN BOOK 14, PAGE 2, LANE COUNTY OREGON PLAT RECORDS, IN LANE COUNTY, OREGON.

3.

On or about June 16, 2011, Defendant Carroll and Bette A. Carroll entered into a note ("Note") and a deed of trust ("Deed of Trust") with Pinnacle Capital Mortgage Corporation, the original lender. The Deed of Trust was recorded with the Lane County Recorder's Office on June 21, 2011 as Instrument Number 2011-028171.

4.

Bette A. Carroll died in April 2013, vesting all interest in the Property with defendant Carroll.

5.

At the time this action was filed, Plaintiff was the holder of the Note made, delivered, and executed by Defendant Carroll in the principal amount of \$171,538. The Note is secured by the first priority Deed of Trust encumbering the Property ("Lien").

6.

Defendant Carroll failed to comply with the terms of the Note and Deed of Trust by failing to

1 make the payments due and owing according to the terms of the Note and Deed of Trust. Pursuant
2 to the terms of the Note and Deed of Trust, Plaintiff has now declared all sums due and owing under
3 the Note and Deed of Trust as immediately due and payable.

4 7.

5 As of December 2, 2016, there was \$208,898.47 due and owing under the Note and secured
6 by the Deed of Trust. Furthermore, interest, fees, and costs continue to accrue under the Note and
7 Deed of Trust. Judgment in the amount of \$208,898.47 shall be granted in favor of Plaintiff, its
8 successors or assigns as further described below.

9 8.

10 Plaintiff is entitled to recover its reasonable attorneys' fees and all reasonable and necessary
11 costs and expenses incurred in enforcing the Note and Deed of Trust.

12 9.

13 Plaintiff, through the Complaint seeks, inter alia, a judgment for foreclosure of the Deed of
14 Trust and a declaration that the Deed of Trust is superior to the interests of the Stipulating
15 Defendant.

16 10.

17 Plaintiff' lien is a valid first priority lien encumbering the Property, and is superior to any
18 interest or claim of Stipulating Defendant. Stipulating Defendant, and all persons claiming by,
19 through, or under them, as purchasers, encumbrancers, or otherwise, are adjudged inferior and
20 subordinate to Plaintiff and are forever foreclosed of all interest, lien, or claim in the Property and
21 every portion thereof.

22 11.

23 Plaintiff shall be entitled to foreclose on the Property and to sell the Property at a foreclosure
24 sale by the Lane County Sheriff in the manner provided by law and in according with any general
25 judgment entered herein in order to satisfy all amounts due and owing under the Note and Deed of
26 Trust as adjudged below.

27 12.

28 Any increased interest or any such additional amounts as Plaintiff may advance for taxes,
assessments, municipal charges, and such other items as may constitute liens on the Property,

1 together with insurance and repairs necessary to prevent the impairment of the Property, together
2 with interest thereon from the date of payment may also be added to this Judgment and paid from the
3 proceeds from the sale of the Property.

4 13.

5 Plaintiff or any other party to this suit may become the purchaser at the sale of the Property.
6 The purchaser is entitled to exclusive and immediate possession of the Property from and after the
7 date of sale and is entitled to such remedies as are available at law to secure possession, and may
8 apply to the Clerk of the Court for a Writ of Assistance, if Stipulating Defendant or any other party
9 or person shall refuse to surrender possession of the property to the purchaser immediately on the
10 purchaser's demand for possession.

11 14.

12 Plaintiff may credit bid up to the aggregate amount of its Declaration of Debt Secured by
13 Deed of Trust plus interest from the date of this Judgment until sale without advancing any cash
14 except money required for the Sheriff's sale.

15 15.

16 The proceeds from the sale are to be applied first toward the costs of sale, then toward the
17 satisfaction of Plaintiff's Judgment awarded herein and the surplus, if any to the Clerk of the Court
18 to be disbursed to such party or parties that may establish their rights thereto.

19 16.

20 No deficiency judgment is, or will be, sought by Plaintiff against Stipulating Defendant.
21 Plaintiff will seek to execute upon the Property as security for the amounts secured by the Deed of
22 Trust and owed to Plaintiff as described in paragraph 7 of this general judgment of foreclosure.
23 Furthermore, Plaintiff will not execute upon any deficiency remaining unsatisfied against Stipulating
24 Defendant from the proceeds of the foreclosure sale in accordance with ORS 86.797(2).

25 17.

26 No money judgment will be entered against Stipulating Defendant, including but not limited
27 to, attorneys' fees and costs.

28 18.

Stipulating Defendant expressly waives his statutory right of redemption, if any. Stipulating

1 Defendant is not entitled to a homestead exemption on account of their interest in the property.

2 19.

3 This Court shall retain jurisdiction over the Plaintiff and Stipulating Defendant ("Parties") to
4 enforce all provisions of this Judgment and to enter such additional order, judgment, or decree
5 necessary for the purchaser at the foreclosure sale to obtain possession of the Property.

6 20.

7 Stipulating Defendant shall be permitted to be a bidder at any foreclosure sale of the Property
8 and shall retain any rights to surplus funds from such a foreclosure sale which are in excess of those
9 distributed to senior liens.

10 21.

11 This Judgment shall inure to the benefit of Plaintiff and Stipulating Defendant, their
12 successors and/or assignees.

13 22.

14 The terms of this Judgment contain the entire agreement between the Parties and supersede
15 any and all other agreements, either oral or written, between the Parties. However, the Parties
16 anticipate that a Supplemental and/or General Judgment, may be filed with the Court to supplement
17 terms and conditions to this Judgment including but not limited to an updated amount due and owing
18 under the Note and Deed of Trust which the Parties consent to the Plaintiff filing with notice to
19 Stipulating Defendant.

20 23.

21 Upon entry of this General Judgment the interests of the Stipulating Defendant, and his
22 successors in interest, in the Property shall be foreclosed and terminated.

23 24.

24 Plaintiff is entitled to an award of its attorney fees, costs, and disbursements in an amount to
25 be determined under ORCP 68 for purposes of execution. No attorney fees or costs shall be awarded
26 against Stipulating Defendant.

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DECLARATION OF DEBT SECURED BY DEED OF TRUST

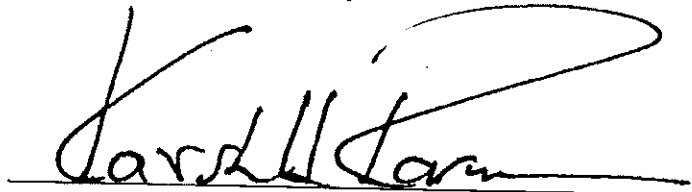
- 1. Judgment Creditor:** Bank of America, N.A., c/o MALCOLM ♦ CISNEROS,
Address: A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
- 2. Judgment Attorney:** Nathan F. Smith
Address: MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
Telephone Number: (949) 252-9400
- 3. Persons or Public Bodies Entitled to a Portion of any Money Award:** N/A
- 4. Judgment Amount:** \$208,898.47
- 5. Pre-Judgment Interest:** Simple interest to accrue on \$163,600.85 from December 15, 2016, to the date the General Judgment is entered into the Court's register at 4.375% per annum, \$19.556 per diem.
- 6. Post-Judgment Interest:** Simple interest to accrue on \$208,898.47 plus Pre-Judgment Interest from the day after the General Judgment is entered to the date upon which the Writ of Execution in Foreclosure is levied at the legal rate of interest or 9% per annum, whichever is greater.
- 7. Periodic accrual:** N/A
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///
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1 **8. Attorney's Fees and Costs:**

An award attorney's fees and costs shall be determined pursuant to ORCP 68.


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4 **IT IS SO ORDERED.**

Signed: 1/19/2017 02:03 PM

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13 **Karsten H. Rasmussen, Circuit Court Judge**

14 PRESENTED BY:

15 
16 _____
17 Nathan F. Smith, OSB#120112
18 Steve Bonfiglio, OSB #051220
19 Attorney for Bank of America, N.A.

20 **Stipulated to by:**


21 **APPROVED AND AGREED TO:**

22 Accepted this 17th day of January, 2017

23 Nathan F. Smith, OSB#120112
24 Steve Bonfiglio, OSB #051220
25 Attorneys for Plaintiff
26 MALCOLM ♦ CISNEROS, A Law
27 Corporation
28 2112 Business Center Drive, Second Floor
Irvine, California 92612
(949) 252-9400 (TELEPHONE)
(949) 252-1032 (FAX)

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APPROVED AND AGREED TO:
DEFENDANT MICHAEL CARROLL
Accepted this 11 day of ~~December, 2016-2017~~
JANUARY



Michael Carroll
515 East Main Street., #19
Rogue River, Oregon 97537

CERTIFICATE OF READINESS

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

- Service is not required under UTCR 5.100 because the other party has been found in default or an order of default is being requested with this proposed Order or Judgment; because this Order or Judgment is submitted ex parte as allowed by statute or rule; or this Order or Judgment is being submitted in open court with all parties present.
- Each party affected by this Order or Judgment has stipulated to or approved the Order or Judgment, as shown by the signatures on the Order or Judgment.
- I have served a copy of this Order or Judgment and written notice of the objection period set out in UTCR 5.100 on all parties entitled to service and:
- No objections have been served on me within that time frame;
 - I received objections that I could not resolve with the other party despite reasonable efforts to do so. I have filed with the Court a copy of the objections I received and indicated which objections remain unresolved.
 - After conferring about objections, the other party agreed to file any remaining objection with the Court.

DATED: January 17, 2017

By: s/Steve Bonfiglio

Nathan F. Smith, OSB #120112

Steve Bonfiglio, OSB #051220

Attorneys for Plaintiff

MALCOLM ♦ CISNEROS, A Law Corporation

2112 Business Center Drive, Second Floor

Irvine, California 92612

(949) 252-9400 (TELEPHONE)

(949) 252-1032 (FAX)

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing
I STIPULATED GENERAL JUDGMENT OF FORECLOSURE
on the below named individual(s) by mailing a copy in a sealed postage paid envelope addressed as
set forth below and deposited in the U.S. Mail at Irvine, California:

MICHAEL A. CARROLL
515 EAST MAIN STREET, #19
ROGUE RIVER, OR 97537

ALL OTHER PERSONS, PARTIES, OR OCCUPANTS UNKNOWN
48327 HILLS STREET
OAKRIDGE, OR 97463

DATED: 1/17/2017

MALCOLM ♦ CISNEROS, A Law Corporation

Corina Clark

CORINA CLARK
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: cclark@mclaw.org