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

MTGLQ INVESTORS, LP,
Plaintiff,

vs.

KAMI R LEMOSS; VAUGHN LEMOSS;
PREMIERWEST BANK; OCCUPANTS OF
THE PROPERTY LOCATED AT 820 NE
8TH STREET, GRANTS PASS, OR 97526;
OCCUPANTS OF THE PROPERTY
LOCATED AT 822 NE 8TH STREET,
GRANTS PASS, OR 97526,
Defendants.

Case No.: 16CV32916

WRIT OF EXECUTION IN
FORECLOSURE

TO THE JOSEPHINE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on November 15, 2017.

A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the
Plaintiff:

MTGLQ INVESTORS, LP
c/o Jeremy Clifford
Attorney for Plaintiff

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

1 With the adjudicated amount due of \$345,805.87, plus post judgment interest at the statutory rate
2 of 9.0% per annum from November 15, 2017 to February 19, 2018 in the amount of \$8,185.65,
3 and continuing with a per diem of \$85.27, currently totaling \$353,991.52.

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 September 9, 2005, 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 #: R342922
9 and commonly known as: 820 & 822 NE 8th Street, Grants Pass, OR 97526.

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.

15
16 
17 Court Clerk

18 **FEB 23 2018**



19
20 Dated: February 15, 2018 and submitted by:

21 **McCarthy & Holthus, LLP**

22 s/ Jeremy Clifford
23 _____
24 Jeremy Clifford OSB No. 142987
25 920 SW 3rd Ave, 1st Floor
26 Portland, OR 97204
27 Phone: (971) 201-3200
28 Fax: (971) 201-3202
jclifford@mccarthyholthus.com
Of Attorneys for Plaintiff

EXHIBIT "1"

Legal Description

PARCEL 1 OF PARTITION PLAT NO. 2004-037, IN JOSEPHINE COUNTY, OREGON.

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THE PROPERTY LOCATED AT 820 NE
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OCCUPANTS OF THE PROPERTY
LOCATED AT 822 NE 8TH STREET,
GRANTS PASS, OR 97526;
Defendants.

Case No.: 16CV32916

STIPULATED GENERAL JUDGMENT OF
FORECLOSURE

1.

Plaintiff MTGLQ INVESTORS, LP, ("Plaintiff"), by and through its attorney of record Richard Billin, and Defendants Kami R Lemoss, and Vaughn Lemoss ("Borrowers") ("Stipulating Defendants"), (collectively the "Parties") have settled all matters between themselves within this action and agreed to the entry of this Stipulated General Judgment.

2.

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

1 **STIPULATED FINDINGS OF FACT:**

2 3.

3 SUBJECT PROPERTY: The real property to which this judgment relates is located and
4 situated in Josephine County, Oregon, and is commonly known as 820 & 822 NE 8th Street,
5 Grants Pass, OR 97526, and legally described as shown in the attached *Exhibit 1*, and having
6 APN/Parcel No. R342922.

7 4.

8 THE NOTE: Plaintiff is authorized to act on behalf of the holder of the beneficial interest
9 in a deed of trust and original note dated 9/9/2005 and made, delivered, and executed by Kami R
10 Lemoss and Vaughn Lemoss in the amount of \$228,700.00 (the "Note"). The Note was
11 transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note

12 5.

13 DEED OF TRUST: A deed of trust was made, executed, and delivered by Defendants
14 Kami R Lemoss and Vaughn Lemoss on or about 9/9/2005 (the "Deed of Trust"). The Deed of
15 Trust was recorded on 9/16/2005 as Instrument No. 2005-021470 in the official records of
16 Josephine County, Oregon.

17 6.

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

19 7.

20 BORROWER'S DEFAULT AND ACCELERATION: Borrowers failed to comply with
21 the terms of the Loan, by failing to make payments as agreed. Under the provisions of the Loan,
22 Plaintiff declared the entire balance of principal and interest due and payable.

23 8.

24 AMOUNTS DUE AND OWING: There is now due and owing the principal sum of
25 \$213,819.47 together with accrued interest accruing at the rate of 5.8750% per annum thereafter,
26 together with any other sums for expenses and fees due under the terms of the Loan or advanced
27 for the protection of the Subject Property as provided in the Amount Due, *infra*.

1 9.

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

5 10.

6 VALID SENIOR LIEN: Plaintiff's lien is a valid senior and prior lien against the Subject
7 Property. Plaintiff is entitled to have its lien foreclosed and the Subject Property sold at a
8 foreclosure sale by the Josephine County Sheriff to satisfy any and all amounts due and owing
9 upon the Deed of Trust and Note as adjudged below.

10 11.

11 RESIDENTIAL TRUST DEED: Pursuant to the Declaration of Kami R Lemoss and
12 Vaughn Lemoss, the Deed of Trust is a residential trust deed pursuant to ORS 86.705(6).

13 12.

14 OCCUPANTS OF THE PROPERTY: Pursuant to the Declaration of Kami R Lemoss and
15 Vaughn Lemoss, Borrowers have authority to execute this Stipulated Judgment on behalf the
16 OCCUPANTS OF THE PROPERTY.

17 **OTHER TERMS**

18 13.

19 NO LEASE OR TENANCY: Stipulating Defendants shall not enter into any lease or
20 renew any existing lease of the Subject Property and shall not allow any other party to occupy
21 the Subject Property.

22 14.

23 COMPLETE AGREEMENT: The terms of this Stipulated Judgment and
24 contemporaneously executed Settlement Agreement contain the entire agreement between the
25 Parties and supersede any and all other agreements, either oral or written, between the Parties.

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STIPULATED LIMITED/GENERAL JUDGMENT:

15.

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

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

Unpaid principal balance:	\$213,819.47
Prejudgment interest accruing from 5/1/2010 through 11/13/2017 and continuing until the entry of judgment at the current Note rate of 5.8750%:	\$94,621.10
Additional amounts due under the terms of the loan:	\$31,908.87
Attorney fees and costs:	\$5,371.43
Prevailing party fee (ORS 20.190 (2)(a)):	\$85.00
Total Judgment	\$345,805.87

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.

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

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

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

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

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

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

16 e. Stipulating Defendant(s) is/are not entitled to a homestead exemption.

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

22 g. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the
23 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not
24 have a 28 U.S.C. § 2410(c) one-year redemption right in this case.

25 h. 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

1 from the date of entry of judgment through the date of the sale and any incurred costs of
2 sale.

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

9 j. In accordance with ORS 86.797(2), Plaintiff shall not be entitled to further execute upon
10 any amounts of the money judgment remaining unsatisfied by the proceeds of the
11 foreclosure sale nor be entitled to a deficiency judgment against the Borrowers for such
12 deficient amounts.

13 k. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the
14 Deed of Trust are as follows:

15 1) PREMIERWEST BANK may claim a junior interest in Subject Property by virtue
16 of a deed of trust recorded on 10/06/2005 as Instrument No. 2005-023105 in the
17 official records of Josephine County, Oregon.

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

3 **IT IS SO STIPULATED:**

Signed: 11/14/2017 04:59 PM

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10 **Circuit Court Judge Thomas M. Hull**

11 **Stipulated to by:**

12 By: s/ Jeremy Clifford

By: s/ Richard Billin

13 Dated: 13 day of November, 2017
14 Jeremy Clifford, OSB No. 142987
15 920 SW 3rd Ave, 1st Floor
16 Portland, OR 97204
17 Phone: (971) 201-3200
18 Fax: (971) 201-3202
19 jelifford@mccarthyholthus.com
20 Of Attorneys for Plaintiff

Dated: 13 day of November, 2017
Richard Billin, OSB No. 904546
(812 Bennett Ave, Medford, OR 97504
Phone: 541-776-9900
Fax: 541-776-1005
Email: rich@billinpc.com
Attorney for Stipulating Defendants Kami R
Lemoss, Vaughn Lemoss

EXHIBIT 1

PARCEL 1 OF PARTITION PLAT NO. 2004-037, IN JOSEPHINE COUNTY, OREGON.

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GRANTS PASS, OR 97526;

Defendants.

Case No.: 16CV32916

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: November 13, 2017

McCarthy & Holthus, LLP

By: s/ Jeremy Clifford
Jeremy Clifford, Attorney