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CLACKAMAS COUNTY SHERIFF

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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF CLACKAMAS

6 MTGLQ INVESTORS, L.P.,

Case No.: CV15050552

7 Plaintiff,

8 vs.

WRIT OF EXECUTION IN
FORECLOSURE

9 KEVIN E. KRUEGER AKA KEVIN ERLYN
10 KRUEGER; SANDRA L. KRUEGER AKA
11 SANDRA LYNNE KRUEGER; JPMORGAN
12 CHASE BANK, N.A.; UNITED STATES OF
AMERICA; OREGON DEPARTMENT OF
REVENUE; CIT SMALL BUSINESS
LENDING CORPORATION; OCCUPANTS
OF THE PROPERTY;

13 Defendants.

14 **TO THE CLACKAMAS COUNTY SHERIFF:**

15 A Judgment of Foreclosure was entered and docketed in this case on February 20, 2018.

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

17 Judgment Creditor:

18 MTGLQ INVESTORS, L.P.
19 c/o Robert Hakari, Attorney for Plaintiff
20 McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

21 With the adjudicated amount due of \$185,341.11, plus post judgment interest at the statutory rate
22 of 9.0% per annum from February 20, 2018 to March 14, 2018 in the amount of \$1,005.41, and
23 continuing with a per diem of \$45.70, currently totaling \$186,346.52.

24 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON,** you are
25 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
26 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
27

1 about June 2, 2003, the date of the Deed of Trust, and also the interest that the Defendant had
2 thereafter, in the real property described in the attached *Exhibit 1*, having APN/Parcel #:
3 00749827 and commonly known as: 1651 April Ct., West Linn, OR 97068.

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

9 **DATED:** 19th day of March, 2018.

10 Clerk
11 Title

12 By: Wendy Watson



13
14 Dated: 3/14/18 and submitted by:

15 **McCarthy & Holthus, LLP**

16 [Signature]

17 John Thomas OSB No. 024691
18 Robert Hakari OSB No. 114082
19 920 SW 3rd Ave, 1st Floor
20 Portland, OR 97204
21 Phone: (971) 201-3200
22 Fax: (971) 201-3202
23 rhakari@mccarthyholthus.com
24 Of Attorneys for Plaintiff

COURT CLERK HAS NOT VERIFIED FIGURES IN THIS WRIT.
IF YOU HAVE ANY QUESTIONS REGARDING THIS WRIT,
PLEASE CONTACT YOUR LEGAL COUNSEL, THE ISSUING
ATTORNEY OR THE ISSUING COMPANY. DEBTOR MAY CONTEST
THIS WRIT BY FILING A CLAIM OF EXEMPTION.

Court Administrator relies on the information
provided by the person seeking issuance of
this writ of execution and is not liable for any
errors or omissions in the information

LOT 6, APRIL WAY, IN THE CITY OF WEST LINN, COUNTY OF CLACKAMAS AND STATE
OF OREGON.

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2
3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF CLACKAMAS

6 MTGLQ INVESTORS, L.P.,

7 Plaintiff,

8 vs.

9 KEVIN E. KRUEGER AKA KEVIN
10 ERLYN KRUEGER; SANDRA L.
11 KRUEGER AKA SANDRA LYNNE
12 KRUEGER; JPMORGAN CHASE BANK,
13 N.A.; UNITED STATES OF AMERICA;
14 OREGON DEPARTMENT OF REVENUE;
15 CIT SMALL BUSINESS LENDING
16 CORPORATION; OCCUPANTS OF THE
17 PROPERTY

18 Defendants.

Case No.: CV15050552

GENERAL JUDGMENT OF
FORECLOSURE

1.
19

20 THIS MATTER came before the Court on Plaintiff's motion. Defendants were duly
21 served with process and failed to appear; the default has been entered against Defendants, and it
22 appearing that Defendants are not incapacitated, protected persons, respondents as defined in
23 ORS 125.005, minors, or in the military service of the United States;

2.
24

IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

- 25 a. The real property to which this judgment relates is located and situated in Clackamas County,
26 Oregon, and is commonly known as 1651 April Ct., West Linn, OR 97068 (the "Subject
27 Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
28 00749827.
- b. Plaintiff is entitled to enforce the note dated June 2, 2003 and made, delivered, and executed
by Kevin E Krueger and Sandra Krueger (the "Borrowers") to Chase Manhattan Mortgage

1 Corporation in the amount of \$166,250.00 (the "Note"). The Note was transferred to
2 Plaintiff by delivery of possession and by indorsement set forth on the Note.

3 c. A deed of trust was made, executed, and delivered by Borrowers on or about June 17, 2003
4 (the "Deed of Trust"). The Deed of Trust was recorded on June 23, 2003 as Instrument No.
5 2003-078901 in the official records of Clackamas County, Oregon. The Deed of Trust is a
6 valid and perfected lien against all of the Property for and securing the Amount Due. The
7 lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall
8 remain in effect until issuance of a Sheriff's Deed.

9 d. Borrowers failed to make the payment that was due for October 1, 2013 and has not cured the
10 default. The amount of debt secured by the Deed of Trust that is now due and owing is
11 comprised of the following amounts (the "Amount Due"):

- | | | |
|----|---------------------------------------|--------------|
| 12 | a) Unpaid principal balance: | \$135,593.36 |
| 13 | b) Prejudgment interest accruing from | \$28,455.35 |
| 14 | 9/1/2013 through 11/27/2017 and | |
| 15 | continuing until the entry of | |
| | judgment at the current Note rate of | |
| | 5.25%: | |
| 16 | c) Additional amounts due under the | \$14,405.70 |
| 17 | terms of the loan: | |
| 18 | d) Attorney fees and costs: | \$6,801.70 |
| 19 | e) Prevailing party fee (ORS 20.190 | \$85.00 |
| 20 | (1)(a)): | |

21 **Total: \$185,341.11**

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

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

- 1 f. Pursuant to 28 U.S.C. § 2410(c), the United States' lien shall have a period of 120 days to
2 redeem the Property as the lien arises under internal revenue laws.
- 3 g. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- 4 h. All right, title and interest in the Subject Property that Borrowers had as of the date of the
5 Deed of Trust or thereafter acquired is hereby ordered to be sold by the Clackamas County
6 Sheriff's Office in accordance with the process for sale upon execution, and the proceeds of
7 sale shall be applied:
- 8 1) First, to the costs of sale not incurred by Plaintiff;
- 9 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
10 entry of judgment through the date of the sale and any incurred costs of sale;
- 11 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
12 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
13 such party or parties as they may establish their right thereto.
- 14 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
15 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
16 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 17 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
18 Property from and after the date of the sale and is entitled to such remedies as are available at
19 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
20 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
21 possession to the purchaser immediately upon the purchaser's demand for possession.
- 22 k. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
23 entitled to any further or other judgment, including a judgment for the deficiency.
- 24 l. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
25 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
26 terminated.
- 27 m. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
28

1 Deed of Trust are as follows:

- 2 1) Defendant JPMORGAN CHASE BANK, N.A. may claim a junior interest in Subject
3 Property by virtue of a deed of trust recorded 12/06/2005 as Instrument No. 2005-
4 121536 in the official records of Clackamas County, Oregon;
- 5 2) Defendant JPMORGAN CHASE BANK, NATIONAL ASSOCIATION may claim a
6 junior interest in Subject Property by virtue of a deed of trust recorded 12/16/2005 as
7 Instrument No. 2005-124694 in the official records of Clackamas County, Oregon;
- 8 3) Defendant CIT SMALL BUSINESS LENDING CORPORATION may claim an
9 interest in Subject Property by virtue of a judgment entered on 03/27/2014 in the
10 Circuit Court of Clackamas County, Case No. CV12120129;
- 11 4) Defendant OREGON DEPARTMENT OF REVENUE may claim an interest in
12 Subject Property by virtue of a Distraint Warrant recorded 02/25/2013 as Instrument
13 No. 2013 013040 in the official records of Clackamas County, Oregon;
- 14 5) Defendant OREGON DEPARTMENT OF REVENUE may claim an interest in
15 Subject Property by virtue of a Distraint Warrant recorded 02/04/2015 as Instrument
16 No. 2014 020714 in the official records of Clackamas County, Oregon;
- 17 6) Defendant OREGON DEPARTMENT OF REVENUE may claim an interest in
18 Subject Property by virtue of a Distraint Warrant recorded 02/04/2015 as Instrument
19 No. 2015 005783 in the official records of Clackamas County, Oregon; and,

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21 ///

22 ///

23 ///

24 ///

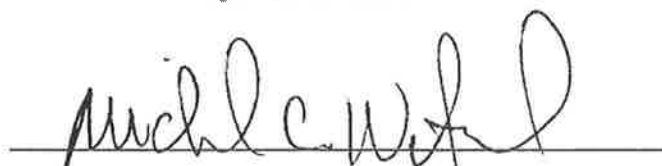
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1 7) Defendant UNITED STATES OF AMERICA may claim an interest in the Subject
2 Property by virtue of a federal tax lien filed on 09/23/2013, Office of County Record,
3 Clackamas County, Instrument Number 2013-66853 bearing serial number
4 961605513

Signed: 2/13/2018 04:29 PM

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7
8 

9 **Circuit Court Judge Michael C. Wetzel**

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

11 This proposed Judgment of Foreclosure is ready for judicial signature because:

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

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

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

17 No objection has been served on me.

18 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
19 indicated which objections remain unresolved.

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

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

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

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

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

26 Other: _____

1 **McCarthy & Holthus, LLP**

2 s/ Robert B. Hakari 11/27/2017

3 Robert Hakari OSB No. 114082

4 920 SW 3rd Ave, 1st Floor

5 Portland, OR 97204

6 Phone: (971) 201-3200

7 Fax: (971) 201-3202

8 rhakari@mccarthyholthus.com

9 Of Attorneys for Plaintiff

Exhibit 1

LOT 6, APRIL WAY, IN THE CITY OF WEST LINN, COUNTY OF CLACKAMAS AND STATE OF OREGON.