

180624

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

U.S. BANK N.A., IN ITS CAPACITY AS
TRUSTEE FOR THE REGISTERED
HOLDERS OF HOME EQUITY ASSET
TRUST 2005-1, HOME EQUITY PASS-
THROUGH CERTIFICATES, SERIES 2005-1,

Case No.: 17CV18525

WRIT OF EXECUTION IN
FORECLOSURE

Plaintiff,

v.

JORAN MELENDEZ SANCHEZ;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS INC.;
AMERICAN MORTGAGE EXPRESS
FINANCIAL DBA MILLENNIUM FUNDING
GROUP; OCCUPANTS OF THE PROPERTY,

Defendants.

TO THE POLK COUNTY SHERIFF:

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

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

U.S. BANK N.A., IN ITS CAPACITY AS TRUSTEE FOR THE REGISTERED
HOLDERS OF HOME EQUITY ASSET TRUST 2005-1, HOME EQUITY PASS-THROUGH
CERTIFICATES, SERIES 2005-1

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 \$161,844.04, plus post judgment interest at the statutory rate
2 of 9.0% per annum from December 15, 2017 to February 19, 2018 in the amount of \$2,633.85,
3 and continuing with a per diem of \$39.91, currently totaling \$164,477.89.

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 December 6, 2004, 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 I*, APN/Parcel #: 566590 and
9 commonly known as: 1116 Elm Street Northwest, Salem, OR 97304.

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 2/23/18 _____

17
18
19 

20 Dated: February 15, 2018 and submitted by:

21 **McCarthy & Holthus, LLP**

Circuit Court Judge Norm R. Hill

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

Lot 3, Block "K" IN WEST SALEM, Polk County, Oregon.

MORE ACCURATELY DESCRIBED AS:

Lot 3, Block "K" in WEST SALEM, in the City of Salem, Polk County, Oregon.

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 POLK

U.S. BANK N.A., IN ITS CAPACITY AS
TRUSTEE FOR THE REGISTERED
HOLDERS OF HOME EQUITY ASSET
TRUST 2005-1, HOME EQUITY PASS-
THROUGH CERTIFICATES, SERIES
2005-1,

Plaintiff,

v.

JORAN MELENDEZ SANCHEZ;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS INC.;
AMERICAN MORTGAGE EXPRESS
FINANCIAL DBA MILLENNIUM
FUNDING GROUP; OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 17CV18525

GENERAL JUDGMENT OF
FORECLOSURE

I.

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

Defendants JORAN MELENDEZ SANCHEZ; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS INC.; AMERICAN MORTGAGE EXPRESS FINANCIAL
DBA MILLENNIUM FUNDING GROUP; 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;

///

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

a. The real property to which this judgment relates is located and situated in Polk County, Oregon, and is commonly known as 1116 Elm Street Northwest, Salem, OR 97304 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 566590.

b. Plaintiff is entitled to enforce the note dated December 6, 2004 and made, delivered, and executed by JORAN MELENDEZ SANCHEZ to AMERICAN MORTGAGE EXPRESS FINANCIAL DBA MILLENIUM FUNDING GROUP in the amount of \$115,920.00 (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 JORAN MELENDEZ SANCHEZ on or about December 6, 2004 (the "Deed of Trust"). The Deed of Trust was recorded on December 15, 2004 as Instrument No. 2004-019882 in the official records of Polk 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 October 1, 2015 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: \$101,779.67
- b) Deferred principal balance: \$43,344.58
- c) Prejudgment interest accruing from 9/1/2015 through 12/5/2017 and continuing until the entry of judgment at the current Note rate of 2.0%: \$4,602.63
- d) Additional amounts due under the \$7,186.63

1 terms of the loan:

2 e) Attorney fees and costs:	\$4,845.53
3 f) Prevailing party fee (ORS 20.190 4 (1)(a)):	\$85.00
5 Total:	\$161,844.04

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

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

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

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

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

23 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
24 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
25 the date of entry of judgment through the date of the sale and any incurred costs of sale.

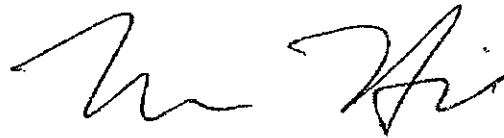
26 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
27 Property from and after the date of the sale and is entitled to such remedies as are available at
28

1 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
2 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
3 possession to the purchaser immediately upon the purchaser's demand for possession.

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

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

Signed: 12/14/2017 01:31 PM



Circuit Court Judge Norm R. Hill

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

17 This proposed Judgment Of Foreclosure is ready for judicial signature because:

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

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

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

25 No objection has been served on me.

26 I received objections that I could not resolve with the opposing party despite
27 reasonable efforts to do so. I have filed a copy of the objections I received and
28 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.

1 [] An order of default is being requested with this proposed judgment.

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

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

6 [] Other: _____

7 Dated: December 5, 2017 and submitted by:

8 **McCarthy & Holthus, LLP**

9 s/ Jeremy Clifford

10 Jeremy Clifford OSB No. 142987

11 920 SW 3rd Ave, 1st Floor

12 Portland, OR 97204

13 Phone: (971) 201-3200

14 Fax: (971) 201-3202

15 jclifford@mccarthyholthus.com

16 Of Attorneys for Plaintiff

EXHIBIT “1”

LEGAL DESCRIPTION

Lot 3, Block "K" IN WEST SALEM, Polk County, Oregon.

MORE ACCURATELY DESCRIBED AS:

Lot 3, Block "K" in WEST SALEM, in the City of Salem, Polk County, Oregon.