

RECEIVED

MAY 08 2018

LINCOLN COUNTY SHERIFF'S OFFICE
NEWPORT, OR

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

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

THE BANK OF NEW YORK MELLON,
F/K/A, THE BANK OF NEW YORK, AS
SUCCESSOR IN INTEREST TO
JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION, AS SUCCESSOR IN
INTEREST TO BANK ONE, NATIONAL
ASSOCIATION, AS TRUSTEE FOR
STRUCTURED ASSET SECURITIES
CORPORATION MORTGAGE LOAN
TRUST 2002-9 MORTGAGE BACKED
NOTES, SERIES 2002-9,
Plaintiff,

v.

GARRY F. LOWE; CAROL L. LOWE; AND
ALL OTHER PERSONS OR PARTIES
UNKNOWN CLAIMING ANY RIGHT,
TITLE, LIEN, OR INTEREST IN THE REAL
PROPERTY COMMONLY KNOWN AS
11555 NE AVERY ST, NEWPORT, OR
97365,

Defendant.

Case No. 17CV32606

WRIT OF EXECUTION

TO THE LINCOLN COUNTY SHERIFF:

On April 5, 2018, a General Judgment of Foreclosure and Declaration of Amount Due by Default was entered by the LINCOLN County Circuit Court, foreclosing Plaintiff's Deed of Trust and directing that the property subject to the Deed of Trust be sold to satisfy the unpaid debt due to Plaintiff.

The mailing address for the judgment creditor is: THE BANK OF NEW YORK MELLON, F/K/A, THE BANK OF NEW YORK, AS SUCCESSOR IN INTEREST TO JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, AS SUCCESSOR IN INTEREST TO BANK ONE, NATIONAL ASSOCIATION, AS TRUSTEE FOR STRUCTURED ASSET

1 SECURITIES CORPORATION MORTGAGE LOAN TRUST 2002-9 MORTGAGE BACKED
2 NOTES, SERIES 2002-9 c/o Aldridge Pite, LLP, 111 SW Columbia St., Ste. 950, Portland, OR
3 97201.

4 The real property to be sold at public auction is commonly known as 11555 NE AVERY
5 ST, NEWPORT, OR 97365 (“Subject Property”), and legally described as:

6 LOT 11, BLOCK 1, BEVERLY BEACH, LINCOLN COUNTY, OREGON.

7 The total amount due and owing on the Judgment as of April 20, 2018;

8	Judgment:	Principal	\$165,865.54
9	Pre-Judgment:	Interest(5.106%, \$10.90/day)	\$152.60 (3/23/18 through 4/5/18)
10		Attorney Fees	\$3,614.50
11		Costs	\$1,227.78
12		Prevailing Party Fee	\$300.00
13	Post-Judgment:	Interest(9.000%, \$42.27/day)	\$634.05 (4/6/18 through 4/20/18)
14		Attorney Fees	\$305.00

15 **TOTAL: \$172,099.47**

16 In the name of the State of Oregon, you are hereby directed to proceed to notice for sale
17 and sell the Subject Property. After the sale, you are directed to issue a certificate of sale to the
18 purchaser and file a return on the writ of execution, depositing the sale proceeds with the Court.
19 Further, you are directed to execute, after the time for redemption has elapsed, a deed to the
20 holder of the certificate of sale.

21 /
22 //
23 //
24 //
25 //
26 //

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

By the signature of the attorney for the judgment creditor, the person that requested issuance of the Writ hereby authorizes the sheriff to continue execution under the Writ and delay making a return on the writ to a date up to 150 days after receipt.



COURT ADMINISTRATOR FOR
LINCOLN COUNTY CIRCUIT COURT

Signed: 5/1/2018 03:54 PM

By: *St. Jull.*
Circuit Court Clerk Steven Zalewski

Presented by:
ALDRIDGE PITE, LLP

By: /s/ Christina Andreoni
{ } Hunter Zook, OSB #095578
{ } Katie Riggs, OSB #095861
{ } Sarah Mathenia, OSB #120681
{ } Shannon K. Calt, OSB #121855
{X} Christina Andreoni, OSB #160875
of Attorneys for Judgment Creditor
(858) 750-7600
(503) 222-2260 (facsimile)
orecourtnotices@aldridgepite.com

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

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

THE BANK OF NEW YORK MELLON,
F/K/A, THE BANK OF NEW YORK, AS
SUCCESSOR IN INTEREST TO
JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION, AS SUCCESSOR IN
INTEREST TO BANK ONE, NATIONAL
ASSOCIATION, AS TRUSTEE FOR
STRUCTURED ASSET SECURITIES
CORPORATION MORTGAGE LOAN
TRUST 2002-9 MORTGAGE BACKED
NOTES, SERIES 2002-9,

Plaintiff,

v.

GARRY F. LOWE; CAROL L. LOWE; and
ALL OTHER PERSONS OR PARTIES
UNKNOWN CLAIMING ANY RIGHT,
TITLE, LIEN, OR INTEREST IN THE REAL
PROPERTY COMMONLY KNOWN AS
11555 NE AVERY ST, NEWPORT, OR
97365,

Defendants.

Case No. 17CV32606

**GENERAL JUDGMENT OF
FORECLOSURE AND DECLARATION OF
AMOUNT DUE BY DEFAULT**

ORCP Rule 69

PURSUANT TO SB368, THIS IS A
JUDGMENT OF FORECLOSURE AND DOES
NOT CONSTITUTE A MONEY AWARD
AGAINST ANY DEFENDANT

Based upon the Court's Order of Default against defendants Garry F. Lowe; Carol L. Lowe; and All Other Persons or Parties Unknown Claiming Any Right, Title, Lien, or Interest in The Real Property Commonly Known As 11555 NE Avery St, Newport, OR 97365, the records on file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by Default by Plaintiff The Bank of New York Mellon, F/K/A, The Bank of New York, as Successor in Interest to JPMorgan Chase Bank, National Association, as Successor in Interest to Bank One, National Association, as Trustee for Structured Asset Securities Corporation

1 Mortgage Loan Trust 2002-9 Mortgage Backed Notes, Series 2002-9 (“Plaintiff”),

2 **IT IS HEREBY ADJUDGED:**

3 1. Plaintiff’s security interest in the real property located at 11555 NE Avery St,
4 Newport, OR 97365 (“Subject Property”), as evidenced by the Deed of Trust recorded
5 November 23, 1992 in the official records of Lincoln County as instrument number Book: 253
6 Pg: 1757 (“Deed of Trust”), is a viable first priority lien, superior to the interests of all the
7 Defendants. All rights, claims, ownerships, liens, titles and demands of all Defendants are
8 subsequent to Plaintiff’s lien as created by the Note and Deed of Trust. The Subject Property is
9 legally described as follows:

10
11 LOT 11, BLOCK 1, BEVERLY BEACH, LINCOLN COUNTY, OREGON.

12
13 2. The Deed of Trust is foreclosed and upon entry of this Judgment the court
14 administrator shall upon request of Plaintiff issue a writ of execution for the sale, by the Sheriff,
15 in the manner provided by law;

16 3. Plaintiff has submitted a Declaration of Amount Due and is owed the total amount
17 due under the Note and Deed of Trust and any future advances and/or fees that may be made or
18 incurred pursuant to the terms of the Note and Deed of Trust up to the date of the execution sale.
19 This amount is to be satisfied by sale of the Subject Property as directed under this Judgment;

20 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an
21 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule
22 68(C), which amount may be added to the outstanding obligation due and owing under the Note
23 and Deed of Trust and recovered from the proceeds of the sheriff’s sale. Pursuant to the Deed of
24 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied
25 by sale of the Subject Property as directed under this Judgment;

26 5. Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule

Page 2 – GENERAL JUDGMENT AND DECLARATION OF AMOUNT DUE BY DEFAULT

1 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing
2 under the Note and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant
3 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This
4 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

5 6. Plaintiff is owed the prevailing party fee of \$300.00, this amount to be satisfied by
6 sale of the Subject Property as directed under this Judgment.

7 7. The Sheriff shall make a return on the writ of execution to the court administrator
8 along with the proceeds of the sale, if any. The proceeds of the sale, if any, shall be applied first
9 toward the costs of the sale; then toward the satisfaction of Plaintiff's Judgment of Foreclosure
10 awarded herein; and the surplus, if any, to the clerk of the court to be distributed to such party or
11 parties as may establish their right thereto. The Defendants and all persons claiming through or
12 under Defendants, whether lien claimants, judgment creditors, claimants arising under junior
13 mortgages or deeds of trust, purchasers, encumbrances or otherwise, shall be barred and
14 foreclosed from all rights, claims, interest or equity of redemption in the Subject Property and
15 every part of the Subject Property when the time for redemption has elapsed;

16 8. Plaintiff or any other party to this action may become a purchaser at the
17 foreclosure sale, and such purchaser shall be immediately let into possession of the subject
18 property, until redemption of the property, if any. The purchaser at the foreclosure sale or any
19 successor in interest may apply to this Court for a writ of assistance to gain possession of the
20 subject property if Defendants or any other party or person refuses to surrender possession;

21 DECLARATION OF AMOUNT DUE BY DEFAULT

22 (PURSUANT TO SB 368, THIS IS A JUDGMENT OF FORECLOSURE AND DOES NOT
23 CONSTITUTE A MONEY AWARD AGAINST ANY DEFENDANT)

24 1. The total amount of the unpaid principal balance, interest, and other amounts
25 owed is \$165,865.54.
26

1 2. Simple interest at the variable rate currently at 5.106% (\$10.90 *per diem*) after
2 March 22, 2018 through the date of judgment.

3 3. Attorney fees of \$3,614.50 plus \$305.00 through the date of judgment.

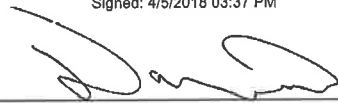
4 4. Costs of \$1,227.78, plus costs accrued through the date of sale.

5 5. Prevailing party fee: \$300.00.

6 6. Post-judgment interest thereafter on the total amounts above, #1-5, at the contract
7 rate of interest or 9.000% per annum, whichever is greater, through the date of sale.

8 **IT IS SO ADJUDGED**

Signed: 4/5/2018 03:37 PM



Circuit Court Judge David V. Cramer

14 **CERTIFICATE OF READINESS**

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

- 16 1. Each party affected by this order or judgment has stipulated to the order or judgment,
17 as shown by each party's signature on the document being submitted.
- 18 2. Each party affected by this order or judgment has approved the order or judgment, as
19 shown by each party's signature on the document being submitted or by written
 confirmation of approval sent to me.
- 20 3. I have served a copy of this order or judgment on all parties entitled to service and:
- 21 a. No objection has been served on me;
- 22 b. I received objections that I could not resolve with a party despite reasonable
23 efforts to do so. I have filed a copy of the objections I received and indicated
 which objections remain unresolved.
- 24 c. After conferring about objections, [**role and name of objecting party**]
25 agreed to independently file any remaining objection.
- 26 4. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or

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

otherwise.

5. 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 (5) of this rule.

6. Other: _____

Presented By:
ALDRIDGE PITE, LLP

/s/ Sarah M. Mathenia _____

Date: April 4, 2018

- { } Hunter Zook, OSB #095578
- { } Katie Riggs, OSB #095861
- {X} Sarah Mathenia, OSB #120681
- { } Shannon K. Calt, OSB #121855
- { } Christina Andreoni, OSB #160875

of Attorneys for Plaintiff
(858) 750-7600
(503) 222-2260 (facsimile)
orecourtnotices@aldridgepite.com