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LINN COUNTY
SHERIFFS OFFICE

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

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE, SUCCESSOR IN INTEREST TO
WACHOVIA BANK, NATIONAL
ASSOCIATION, (FORMERLY KNOWN AS
FIRST UNION NATIONAL BANK) AS
TRUSTEE, FOR LONG BEACH
MORTGAGE LOAN TRUST 2001-4,

Case No.: 17CV21810

WRIT OF EXECUTION IN
FORECLOSURE

Plaintiff,

vs.

STEPHEN D. VICK AKA STEPHEN D.
VICK SR; SHERRI L. VICK AKA SHERRI
LYN VICK; UNITED STATES OF
AMERICA; STATE OF OREGON;
OCCUPANTS OF THE PROPERTY,

Defendants.

TO THE LINN COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on December 1, 2017.

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

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN
INTEREST TO WACHOVIA BANK, NATIONAL ASSOCIATION, (FORMERLY KNOWN
AS FIRST UNION NATIONAL BANK) AS TRUSTEE, FOR LONG BEACH MORTGAGE
LOAN TRUST 2001-4

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 \$189,749.37, plus post judgment interest at the statutory rate
2 of 9.0% per annum from December 1, 2017 to April 20, 2018 in the amount of \$6,550.25, and
3 continuing with a per diem of \$46.79, currently totaling \$196,299.62.

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 August 20, 2001, the date of the Deed of Trust, and also the interest that the Defendant had
8 thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: 27678 and
9 commonly known as: 38969 Stoller Rd, Scio, OR 97374.

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.



Signed: 4/20/2018 11:39 AM


Rachael Pelroy, Administrative Authority

18 Dated: 4/18/2018 and submitted by:

19 **McCarthy & Holthus, LLP**

20 s/ Jeremy Clifford

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

Exhibit 1

Beginning at a one-half inch iron pipe which is North $89^{\circ} 47'$ East 212.30 feet and South $00^{\circ} 04'$ West 130.00 feet from the Northeast corner of the Joseph Crank Donation Land Claim No. 567 in Section 7, Township 10 South, Range 1 West of the Willamette Meridian, Linn County, Oregon; thence South $00^{\circ} 04'$ West 71.0 feet to a 1/2 inch iron rod; thence North $89^{\circ} 47'$ East 150.0 feet to a one-half inch iron rod; thence North $00^{\circ} 04'$ East 71.0 feet to a one-half inch iron pipe; thence South $89^{\circ} 47'$ West 150.0 feet to the place of beginning.

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

U.S. BANK NATIONAL ASSOCIATION,
AS TRUSTEE, SUCCESSOR IN
INTEREST TO WACHOVIA BANK,
NATIONAL ASSOCIATION,
(FORMERLY KNOWN AS FIRST UNION
NATIONAL BANK) AS TRUSTEE, FOR
LONG BEACH MORTGAGE LOAN
TRUST 2001-4,

Plaintiff,

vs.

STEPHEN D. VICK AKA STEPHEN D.
VICK SR; SHERRI L. VICK AKA SHERRI
LYN VICK; UNITED STATES OF
AMERICA; STATE OF OREGON;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 17CV21810

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

- a. Defendants STEPHEN D. VICK AKA STEPHEN D. VICK SR; SHERRI L. VICK AKA SHERRI LYN VICK; UNITED STATES OF AMERICA; OCCUPANTS OF THE PROPERTY ("Defaulted Defendants") were duly served with process and failed to appear; the default has been entered against Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States;

1 b. A Stipulated Limited Judgment has been entered with regard to Defendant STATE OF
2 OREGON ("State") (Collectively State and Defaulted Defendants are known as
3 "Defendants").

4 2.

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

6 a. The real property to which this judgment relates is located and situated in Linn County,
7 Oregon, and is commonly known as 38969 Stoller Rd, Scio, OR 97374 (the "Subject
8 Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
9 27678.

10 b. Plaintiff is entitled to enforce the note dated August 20, 2001 and made, delivered, and
11 executed by Sherri Vick, and Stephen Vick to Long Beach Mortgage Company in the amount
12 of \$93,750.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession
13 and by indorsement set forth on the Note.

14 c. A deed of trust was made, executed, and delivered by Defendants Sherri L. Vick, Stephen D.
15 Vick on or about August 20, 2001 (the "Deed of Trust"). The Deed of Trust was recorded on
16 August 29, 2001 as Vol 1211 Page 616 in the official records of Linn County, Oregon. The
17 Deed of Trust is a valid and perfected lien against all of the Property for and securing the
18 Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the
19 Defendants and shall remain in effect until issuance of a Sheriff's Deed.

20 d. The Borrower failed to make the payment that was due for February 1, 2010 and has not
21 cured the default. The amount of debt secured by the Deed of Trust that is now due and
22 owing is comprised of the following amounts (the "Amount Due"):

- 23 a) Unpaid principal balance: \$88,669.87
24 b) Prejudgment interest accruing from \$79,442.54
25 2/1/2010 through 11/22/2017 and
26 continuing until the entry of
judgment at the current Note rate of
11.99%:
27 c) Additional amounts due under the \$17,786.78

terms of the loan:

d) Attorney fees and costs:	\$3,765.18
e) Prevailing party fee (ORS 20.190 (1)(a)):	\$85.00
Total:	\$189,749.37

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 11.99% per annum.

- e. The interest of the Defendants and any successor in interest in the Subject Property is foreclosed and terminated excepting only any statutory right of redemption as provided by Oregon law.
- f. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a 28 U.S.C. § 2410(c) one-year redemption right in this case.
- g. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- h. All right, title and interest in the Subject Property that Defendants Sherri L. Vick, Stephen D. Vick had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the Linn County Sheriff's Office in accordance with the process for sale upon execution, and the proceeds of sale shall be applied:
 - 1) First, to the costs of sale not incurred by Plaintiff;
 - 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of entry of judgment through the date of the sale and any incurred costs of sale;
 - 3) Third, the surplus, if any, to the Defendants in the priority as their interest may appear, described *infra*, or to the clerk of the court to be distributed by the Court to such party or parties as they may establish their right thereto.

- 1 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
2 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
3 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 4 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
5 Property from and after the date of the sale and is entitled to such remedies as are available at
6 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
7 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
8 possession to the purchaser immediately upon the purchaser's demand for possession.
- 9 k. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
10 entitled to any further or other judgment, including a judgment for the deficiency.
- 11 l. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
12 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
13 terminated.
- 14 m. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
15 Deed of Trust are as follows:

- 16 1) Defendant UNITED STATES OF AMERICA may claim an interest in the Subject
17 Property by virtue of a federal tax lien, notice of which was filed as follows:

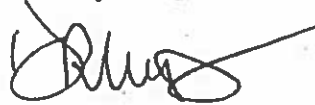
18 Notice of federal tax lien in the amount of \$15,761.30, filed 05/19/2006,
19 Office of County Record, Linn County, Instrument Number 2006-11890
20 wherein STEPHEN D. VICK AKA STEPHEN D. VICK SR of 38969 Stoller
21 Rd, Scio, OR 97374 is named as taxpayer. The notice was filed by the
22 Internal Revenue Service and bears serial number 290355806.

- 23 2) Defendant STATE OF OREGON acting through the department of Revenue, may
24 also claim a junior interest in Subject Property by virtue of a Tax Lien recorded on
25 01/24/2007 as Instrument No. 2007-01924 in the official records of Linn County,
26 Oregon.

1 3) Defendant STATE OF OREGON acting through the department of Revenue, may
2 also claim a junior interest in Subject Property by virtue of a Tax Lien recorded on
3 04/10/2007 as Instrument No. 2007-08750 in the official records of Linn County.

4 4) Defendant STATE OF OREGON acting through the department of Revenue, may
5 also claim a junior interest in Subject Property by virtue of a Tax Lien recorded on
6 07/03/2008 as Instrument No. 2008-13386 in the official records of Linn County.
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8
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Signed: 12/1/2017 07:15 AM



Circuit Court Judge, Daniel R. Murphy

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

15 On 11/22/2017, a copy of the Motion For Entry Of Judgment, Declaration Of Attorney
16 Fees And Costs For Plaintiff, Declaration Of Amounts Due, Proposed Judgment Of Foreclosure
was:

17 Mailed to:

18 State of Oregon
19 1162 Court Street NE
Salem, OR 97301

20 By placing a copy of the executed documents in the firm's outgoing mailbox.

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

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

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

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

27 No objection has been served on me.
28

1 I received objections that I could not resolve with the opposing party despite
2 reasonable efforts to do so. I have filed a copy of the objections I received and
3 indicated which objections remain unresolved.

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

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

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

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

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

13 Other: _____

14 Dated: November 22, 2017 and submitted by:

15 **McCarthy & Holthus, LLP**

16 s/ Jeremy Clifford

17 Jeremy Clifford OSB No. 142987

18 920 SW 3rd Ave, 1st Floor

19 Portland, OR 97204

20 Phone: (971) 201-3200

21 Fax: (971) 201-3202

22 jclifford@mccarthyholthus.com

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