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LANE COUNTY S.O. CIVIL
04-16-18
BJS/41

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

BANK OF AMERICA, N.A.,

CASE NUMBER: 161500411

Plaintiff,

vs.

WRIT OF EXECUTION IN FORECLOSURE

JASON E. TRIPP, an individual; LILLIAN R. WEAVER, an individual; STATE OF OREGON, a government entity; and all other persons, parties, or occupants unknown claiming any legal or equitable right, title, estate, lien, or interest in the real property described in the complaint herein, adverse to Plaintiff's title, or any cloud on Plaintiff's title to the Property.

Defendants.

TO: THE SHERIFF OF LANE COUNTY, OREGON:

1.

WHEREAS, on October 18, 2017, in the above-entitled Court, a General Judgment of Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding

2.

NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby commanded to sell, in the manner prescribed by law for the sale of real property upon (subject to redemption, if applicable), all of the interest which the Defendants JASON E. TRIPP, LILLIAN R. WEAVER, and STATE OF OREGON ("Defendants") had on May 4, 2010, the date of the foreclosed Deed of Trust which was recorded on May 10, 2010, as Instrument No. 2010-022008 in the official records of the Lane County Recorder's Office, and/or all of the interest which Defendants had thereafter, in the real property described in the Judgment to satisfy the Judgment as follows:

Lender's Principal Judgment:

Unpaid Principal Balance:	\$131,828.47
Pre-Judgment Interest from October 1, 2013 to November 30, 2016, the date set forth in the Judgment at 5.2500%, per annum, (\$18.9098 per diem):	\$21,888.13
Lender's Fees and Costs:	\$10,339.33
Attorney's Fees and Costs:	\$3,728.00
<i>Total Judgment Entered:</i>	<i>\$167,783.93</i>

Additional Pre-Judgment Interest:

Accrued Interest from December 1, 2016, the day after the date set forth in the Judgment through October 18, 2017, the date of entry of the Judgment, at 5.2500%, per annum (\$18.9098 per diem):	\$6,070.05
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**Total Judgment Entered Including
Additional Pre-Judgment**

Interest: \$173,853.98

3.

Additionally, Plaintiff is entitled to the accrual of post-judgment interest on \$173,853.98 at the legal rate of interest of 9% per annum, \$42.86 per diem, from October 19, 2017 to the date the real property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus costs of this Writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

4.

The real property subject to this writ of execution is commonly known as 560 EVELYN AVENUE, CRESWELL, OR 97426 ("Property") and described in Exhibit "1" attached hereto.

5.

The Judgment Creditor's name and address is:

BANK OF AMERICA, N.A.
100 N. Tryon St.
Charlotte, NC 28255-4000

The Judgment Creditor's name and address for the purpose of this Writ is:

BANK OF AMERICA, N.A.
c/o Malcolm & Cisneros, ALC (Attention: Nathan F. Smith)
2112 Business Center Drive
Irvine, CA 92612
949-252-9400

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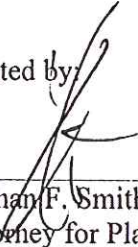
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THEREFORE, in the name of the State of Oregon, you are hereby commanded to seize and sell the Property, in the manner prescribed by law; or so much thereof as may be necessary to satisfy the Judgment, interest, fees, and costs.

MAKE RETURN HEREOF within 60 days after you receive this Writ.

NOV 16 2017

Submitted by:



Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org



By: Angie Jones
Clerk

Dated: 11/13/17

EXHIBIT 1



LEGAL DESCRIPTION

Lot 3, Block 1, SOUTHGATE ESTATES, as platted and recorded in Book 58, Page 7, Lane County Oregon Plat Records, in Creswell, Lane County, Oregon.

RECEIVED
OCT 17 2017
CIRCUIT COURT, LANE CO

Verified Correct Copy of Original 10/16/2017

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

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BANK OF AMERICA, N.A.,

Plaintiff,

vs.

JASON E. TRIPP, an individual; LILLIAN R. WEAVER, an individual; STATE OF OREGON, a government entity; and all other persons, parties, or occupants unknown claiming any legal or equitable right, title, estate, lien, or interest in the real property described in the complaint herein, adverse to Plaintiff's title, or any cloud on Plaintiff's title to the Property.

Defendants.

CASE NUMBER: 161500411

GENERAL JUDGMENT OF FORECLOSURE AGAINST:

1. JASON E. TRIPP
2. LILLIAN R. WEAVER
3. STATE OF OREGON

161500411
PPJG
Judgment - Proposed
8117699



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1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, BANK OF AMERICA, N.A. ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants Jason E. Tripp, Lillian R. Weaver and State of Oregon ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that the ORDER FOR ENTRY OF DEFAULT AGAINST DEFENDANT LILLIAN R. WEAVER and ORDER FOR ENTRY OF DEFAULT AGAINST DEFENDANTS JASON E. TRIPP AND STATE OF OREGON have been entered against them on Plaintiff's Complaint, and that Plaintiff is entitled to entry of a General Judgment foreclosing

1 Plaintiff's deed of trust against the property commonly known as 560 EVELYN AVENUE,
2 CRESWELL, OREGON 97426 ("Property") and extinguishing any and all interest of the
3 Defendants in the Property.

4 2.

5 The Court being fully advised; it is hereby
6 ORDERED AND ADJUDGED that:

7 3.

8 Plaintiff is the holder of that certain promissory note ("Note"), dated May 4, 2010, in the
9 amount of \$138,775.00, and executed by Jason E. Tripp and Lillian R. Weaver.

10 4.

11 The Note is secured by that certain deed of trust ("Deed of Trust") executed on or about May
12 6, 2010, by Jason E. Tripp and Lillian R. Weaver. The Deed of Trust was recorded on May 10, 2010
13 under the recording number 2010-022008 of the Official Records of Lane County, Oregon, against
14 the Property, which is legally described in Exhibit "1" attached hereto ("Property") and constitutes a
15 valid lien against the Property.

16 5.

17 Defendants Jason E. Tripp and Lillian R. Weaver failed to comply with the terms of the Note
18 and Deed of Trust by failing to make the payments required by the terms of the Note and Deed of
19 Trust. Pursuant to the terms of the Note and Deed of Trust, Plaintiff declared all sums due and owing
20 under the Note and Deed of Trust immediately due and payable.

21 6.

22 The Deed of Trust is a valid first priority lien encumbering the Property, is superior to any
23 interest, lien, or claim of the Defendants and any other party in the Property, which are hereby
24 foreclosed and terminated, excepting only any statutory right of redemption to which the Defendants
25 may be entitled under Oregon law.

26 7.

27 A judgment of foreclosure in the amount of \$164,055.93 shall be granted in favor of Plaintiff,
28 and its successors and/or assigns, as further described below in the Declaration of Amount Owed --

1 Not a Money Award ("Amount Owed").

2 8.

3 The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the
4 satisfaction of Plaintiff's Amount Owed herein; and the surplus, if any to the Clerk of the Court to be
5 disbursed to such party or parties as may establish their right thereto.

6 9.

7 Pursuant to ORCP 68, Plaintiff is entitled to request its reasonable attorney's fees and all
8 reasonable and necessary costs and expenses incurred to enforcing the Note and Deed of Trust.

9 10.

10 Any increased interest or any such additional amounts as Plaintiff may advance for taxes,
11 assessments, municipal charges, and such other items as may constitute liens on the Property,
12 together with insurance and repairs necessary to prevent the impairment of the Property, together
13 with interest thereon from the date of payment may also be added to the Amount Owed and paid
14 from the proceeds from the sale of the Property.

15 11.

16 Defendants and all parties claiming an interest in the Property as purchasers, encumbrancers,
17 or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and
18 every portion thereof, excepting only any statutory right of redemption provided by the laws of the
19 State of Oregon.

20 12.

21 Defendants Jason E. Tripp and Lillian R. Weaver are not entitled to a homestead exemption
22 in the Property.

23 13.

24 Plaintiff may become purchaser at the Sheriff's Sale of the Property and may bid up to the
25 aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

26 14.

27 The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate
28 possession of the Property from and after the date of the sale, and is entitled to such remedies as are

1 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
2 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
3 possession of the Property to the purchaser immediately on the purchaser`s demand for possession.

4 15.

5 This Court shall retain jurisdiction to enforce all provisions of this General Judgment and to
6 enter such additional order, judgment, or decree necessary for the purchaser at the foreclosure sale to
7 obtain possession of the Property.

8 16.

9 Under the Note, there is now due and owing to Plaintiff, the following amounts, to be
10 hereinafter described as the Amount Owed.

11 17.

12 This suit does not constitute an attempt to collect the debt against Defendants Jason E. Tripp
13 and Lillian R. Weaver. Rather, it is a suit to execute upon the Property as security for the Amount
14 Owed.

15 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**

16 (Pursuant to Senate Bill 368)

17 18.

18 Under the terms of the Deed of Trust and the Note dated May 4, 2010, in the original
19 principal amount of \$138,775.00, there is now due and owing the following amounts, to be
20 hereinafter described as the Amount Due:

21
22 **DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD**

23 **1. Judgment Creditor:** BANK OF AMERICA, N.A.
24 Address: c/o MALCOLM ♦ CISNEROS,
25 A Law Corporation
26 2112 Business Center Drive, 2nd Floor
27 Irvine, California 92612
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Judgment Attorney:
Address:

Nathan F. Smith
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
(949) 252-9400

Telephone Number:

2. Persons or Public Bodies Entitled to a Portion the Judgment:

N/A

3. Judgment Amount:

\$164,055.93

4. Pre-Judgment Interest:

Simple interest to accrue on \$131,828.47 from December 1, 2016 to the date the Judgment is entered into the Court's register at 5.2500% per annum, \$18.9098 per diem.

5. Post-Judgment Interest:

Simple interest to accrue on \$164,055.93 plus Pre-Judgment Interest from the day after the General Judgment is entered to the date upon which the Writ of Execution in Foreclosure is levied at the legal rate of interest or 9% per annum, whichever is greater.

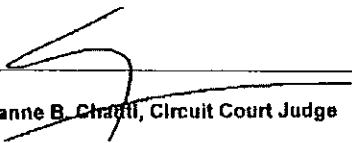
6. Periodic accrual:

N/A

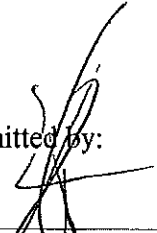
7. Attorney's Fees:

Attorney's fees and costs to be determined pursuant to ORCP 68.

Signed: 10/17/2017 2:49:17 PM


Suzanne B. Chaffin, Circuit Court Judge

Submitted by:



Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

Dated: 10/4/17

_ Verified Copy of Original 10/16/2017. _



LEGAL DESCRIPTION

Lot 3, Block 1, SOUTHGATE ESTATES, as platted and recorded in Book 58, Page 7, Lane County Oregon Plat Records, in Creswell, Lane County, Oregon.

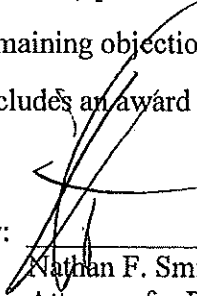
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CERTIFICATE OF READINESS

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

- Service is not required pursuant to subsection (3) of UTCR 5.100, or by statute, rule or otherwise.
- 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.
- 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, [role and name of opposing party] agreed to independently file any remaining objection.
- This is a proposed judgment that includes an award of punitive damages.

DATED: 10/6, 2017

By: 
 Nathan F. Smith, OSB #120112
 Attorney for Plaintiff
 MALCOLM ♦ CISNEROS, A Law Corporation
 2112 Business Center Drive, Second Floor
 Irvine, California 92612
 (949) 252-9400 (TELEPHONE)
 (949) 252-1032 (FAX)