

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

BANK OF AMERICA, N.A. ,

Plaintiff,

vs.

BRAD W. JOHNSON INDIVIDUALLY AND
AS THE PERSONAL REPRESENTATIVE
OF THE ESTATE OF GROVE E. JOHNSON,;
STATE OF OREGON ; TERESA ANNE
JOHNSON; UNITED STATES OF
AMERICA; OCCUPANTS OF THE
PROPERTY;

Defendants.

Case No.: 16CV19050

WRIT OF EXECUTION IN
FORECLOSURE

TO THE JOSEPHINE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on July 31, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

BANK OF AMERICA, N.A.
c/o Robert Hakari, Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$371,650.47, plus post judgment interest at the statutory rate of 9.0% per annum from July 31, 2017 to 4/18/18 in the amount of \$23,918.00, and continuing with a per diem of \$91.64, currently totaling \$395,568.47.

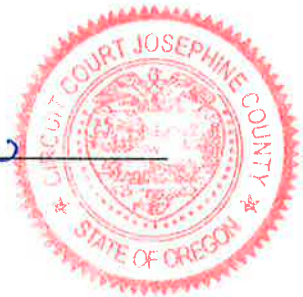
NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby commanded to sell, in the manner prescribed by law for the sale of real property on execution (subject to redemption of 180 days), all of the interest that the Defendant had on or about August 6, 2010, the date of the Deed of Trust, and also the interest that the Defendant had

1 thereafter, in the real property described in *Exhibit 1*, having APN/Parcel #: R346379 and
2 commonly known as 8940 Redwood Highway, Wilderville, OR 97543.

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

8
9 

Court Clerk



10 Submitted by:

APR 20 2018

11 **McCarthy & Holthus, LLP**

12 s/ Robert B. Hakari 4/18/18

13 Robert Hakari OSB No. 114082
14 920 SW 3rd Ave, 1st Floor
15 Portland, OR 97204
16 Phone: (971) 201-3200
17 Fax: (971) 201-3202
18 rhakari@mccarthyholthus.com
19 Of Attorneys for Plaintiff
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EXHIBIT "1"

Beginning at the Southwest corner of Lot 13 of Evergreen Terrace Subdivision in Josephine County, Oregon; thence North 64° 21' 07" East, along the South line of said Lot 13 and its Easterly extension, 515.0 feet; thence South 23° 33' East, 383 feet, more or less, to the North line of Redwood Highway; thence Southwesterly along said North line, 664 feet, more or less, to the East line of said Evergreen Terrace Subdivision; thence North, along said East line, 394 feet, more or less, to the point of beginning.

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Plaintiff,

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BRAD W. JOHNSON INDIVIDUALLY
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REPRESENTATIVE OF THE ESTATE OF
GROVE E. JOHNSON, STATE OF
OREGON ; TERESA ANNE JOHNSON;
UNITED STATES OF AMERICA;
OCCUPANTS OF THE PROPERTY;

Defendants.

Case No.: 16CV19050

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

- a. All Defendants ("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;

2.

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

- 1 a. The real property to which this judgment relates is located and situated in Josephine County,
 2 Oregon, and is commonly known as 8940 Redwood Highway, Wilderville, OR 97543 (the
 3 "Subject Property") and having APN/Parcel No. R346379
- 4 b. The legal description of the subject Deed of Trust is reformed to reflect the legal description
 5 in the attached *Exhibit 1*.
- 6 c. Plaintiff is entitled to enforce the note dated August 6, 2010 and made, delivered, and
 7 executed by Brad W. Johnson Individually and as the Personal Representative of the Estate
 8 of Grove Johnson, Brad W. Johnson Individually and as the Personal Representative of the
 9 Estate of Grove Johnson to Equipoint Financial Network in the amount of \$231,900.00 (the
 10 "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement
 11 set forth on the Note.
- 12 d. A deed of trust was made, executed, and delivered by Defendant(s) Grove E. Johnson on or
 13 about August 6, 2010 (the "Deed of Trust"). The Deed of Trust was recorded on August 20,
 14 2010 as Instrument No. 2010-010604 in the official records of Josephine County, Oregon.
 15 The Deed of Trust is a valid and perfected lien against all of the Property for and securing the
 16 Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the
 17 Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- 18 e. The Borrower failed to make the payment that was due for October 7, 2011 and has not cured
 19 the default. The amount of debt secured by the Deed of Trust that is now due and owing is
 20 comprised of the following amounts (the "Amount Due"):

21	a) Unpaid principal balance:	\$354,170.64
22	b) Accrued Interest	\$863.21
23	c) Additional amounts due under the	\$11,841.63
24	terms of the loan:	
25	d) Attorney fees and costs:	\$4,689.99
26	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(a)):	
27	Total:	\$371,650.47

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

4 f. The interest of the Defendants and any successor in interest in the Subject Property is
5 foreclosed and terminated excepting only any statutory right of redemption as provided by
6 Oregon law.

7 g. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the
8 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a
9 28 U.S.C. § 2410(c) one-year redemption right in this case.

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

11 i. All right, title and interest in the Subject Property that Defendant Grove E. Johnson had as of
12 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
13 Josephine County Sheriff's Office in accordance with the process for sale upon execution,
14 and the proceeds of sale shall be applied:

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

21 j. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
22 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
23 the date of entry of judgment through the date of the sale and any incurred costs of sale.

24 k. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
25 Property from and after the date of the sale and is entitled to such remedies as are available at
26 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
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1 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
2 possession to the purchaser immediately upon the purchaser's demand for possession.

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

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

8 n. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
9 Deed of Trust are as follows:

10 1) UNITED STATES OF AMERICA may claim an interest in the subject property
11 under the terms of an additional, subordinate note and deed of trust, associated with
12 this loan issued to the Secretary of Housing and Urban Development(the "HUD
13 Loan") in the amount of \$450,000. The deed of trust associated with the HUD Loan is
14 recorded in the official records of Josephine County as Instrument No. 2010-010605
15 on 08/20/2010.

16 2) STATE OF OREGON has or may have a lien against the property under the State of
17 Oregon tax deferral program.

18 3) BRAD W. JOHNSON may claim a junior interest in the Property by virtue of any
19 operation in intestate succession, devise or operation of law.

20 4) TERESA ANNE. JOHNSON may claim a junior interest in the Property by virtue of
21 any operation in intestate succession, devise or operation of law

Signed: 7/28/2017 03:20 PM



Circuit Court Judge Thomas M. Hull

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

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

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

4
5 Dated: July 27, 2017 and submitted by:

6 **McCarthy & Holthus, LLP**

7 s/ Brady Godbout

8 Brady Godbout OSB No. 132708

9 920 SW 3rd Ave, 1st Floor

10 Portland, OR 97204

11 Phone: (971) 201-3200

12 Fax: (971) 201-3202

13 bgodbout@mccarthyholthus.com

14 Of Attorneys for Plaintiff

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