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CLACKAMAS COUNTY SHERIFF

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

NATIONSTAR MORTGAGE LLC D/B/A  
CHAMPION MORTGAGE COMPANY,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES  
OF SYDNEY S. MACFARLANE, THE  
UNKNOWN HEIRS AND DEVISEES OF  
WILLIAM F. MACFARLANE; STATE OF  
OREGON; UNITED STATES OF AMERICA;  
ALESON MACFARLANE; OCCUPANTS OF  
THE PROPERTY,

Defendants.

Case No.: 17CV12331

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE CLACKAMAS COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on February 20, 2018.

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

Judgment Creditor:

NATIONSTAR MORTGAGE LLC  
D/B/A CHAMPION MORTGAGE COMPANY  
c/o Andreanna Smith  
Attorney for Plaintiff  
McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

1 With the adjudicated amount due of \$265,733.18, plus post judgment interest at the statutory rate  
2 of 9.0% per annum from February 20, 2018 to April 3, 2018 in the amount of \$2,751.84, and  
3 continuing with a per diem of \$65.52, currently totaling \$268,485.02.

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 November 20, 2008, the date of the Deed of Trust, and also the interest that the Defendant  
8 had thereafter, in the real property described as follows in attached Exhibit 1, APN/Parcel #  
9 00723471, and commonly known as 64425 East Barlow Trail Road, Rhododendron, OR 97049.

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 *Dated: April 9, 2018.*

*Wendy Watson*



16  
17  
18 Dated: 3/30/2018 and submitted by:

19 **McCarthy & Holthus, LLP**

*A. Smith*

20 Andreanna Smith OSB No. 131336  
21 920 SW 3rd Ave, 1st Floor  
22 Portland, OR 97204  
23 Phone: (971) 201-3200  
24 Fax: (971) 201-3202  
25 [ansmith@mccarthyholthus.com](mailto:ansmith@mccarthyholthus.com)  
26 Of Attorneys for Plaintiff  
27  
28

COURT CLERK HAS NOT VERIFIED FIGURES IN THIS WRIT.  
IF YOU HAVE ANY QUESTIONS REGARDING THIS WRIT,  
PLEASE CONTACT YOUR LEGAL COUNSEL, THE ISSUING  
ATTORNEY OR THE ISSUING COMPANY. DEBTOR MAY CONTEST  
THIS WRIT BY FILING A CLAIM OF EXEMPTION.

Court Administrator relies on the information  
provided by the person seeking issuance of  
this writ of execution and is not liable for any  
errors or omissions in the information

# **Exhibit “1”**

**LOTS 47 AND 48, LIBERTY LODGE, IN CLACKAMAS COUNTY, OREGON.**

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

NATIONSTAR MORTGAGE LLC D/B/A  
CHAMPION MORTGAGE COMPANY,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES  
OF SYDNEY S. MACFARLANE; THE  
UNKNOWN HEIRS AND DEVISEES OF  
WILLIAM F. MACFARLANE; STATE OF  
OREGON; UNITED STATES OF  
AMERICA; ALESON MACFARLANE;  
OCCUPANTS OF THE PROPERTY,;

Defendants.

Case No.: 17CV12331

GENERAL JUDGMENT OF  
FORECLOSURE

1.

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

a. Defendants THE UNKNOWN HEIRS AND DEVISEES OF SYDNEY S. MACFARLANE;  
THE UNKNOWN HEIRS AND DEVISEES OF WILLIAM F. MACFARLANE; STATE  
OF OREGON; UNITED STATES OF AMERICA; ALESON MACFARLANE;  
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;

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 Clackamas County,  
2 Oregon, and is commonly known as 64425 East Barlow Trail Road, Rhododendron, OR  
3 97049 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and  
4 having APN/Parcel No. 00723471.

5 b. Plaintiff is entitled to enforce the note dated November 20, 2008 and made, delivered, and  
6 executed by William MacFarlane and Sydney S. MacFarlane to Golf Savings Bank in the  
7 amount of \$427,500.00 (the "Note"). The Note was transferred to Plaintiff by delivery of  
8 possession and by indorsement set forth on the Note.

9 c. A deed of trust was made, executed, and delivered by Defendants Sydney S. MacFarlane,  
10 William F. MacFarlane on or about November 20, 2008 (the "Deed of Trust"). The Deed of  
11 Trust was recorded on December 1, 2008 as Instrument No. 2008-079588 in the official  
12 records of Clackamas County, Oregon. The Deed of Trust is a valid and perfected lien  
13 against all of the Property for and securing the Amount Due. The lien of the Plaintiff is  
14 superior to any interest, lien, or claim of the Defendants and shall remain in effect until  
15 issuance of a Sheriff's Deed.

16 d. Sydney S. MacFarlane passed away on 2/8/2017, William F. MacFarlane passed away on  
17 6/27/2009. Under the terms of the note and deed of trust the loan is now in default. The  
18 amount of debt secured by the Deed of Trust that is now due and owing is comprised of the  
19 following amounts (the "Amount Due"):

20	a) Unpaid principal balance:	\$198,107.91
21	b) Prejudgment interest	\$34,820.61
22	c) Additional amounts due under the	\$28,658.16
23	terms of the loan:	
24	d) Attorney fees and costs:	\$4,061.50
25	e) Prevailing party fee (ORS 20.190	\$85.00
26	(1)(a)):	
27	<b>Total:</b>	<b>\$265,733.18</b>

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

11 h. All right, title and interest in the Subject Property that Defendants Sydney S. MacFarlane,  
12 William F. MacFarlane had as of the date of the Deed of Trust or thereafter acquired is  
13 hereby ordered to be sold by the Clackamas County Sheriff's Office in accordance with the  
14 process for sale upon execution, 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 i. 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 j. 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 k. 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 l. 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 m. 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) Defendant, THE UNKNOWN HEIRS AND DEVISEES OF WILLIAM F.  
11 MACFARLANE, may claim a junior interest in the Property if he/she/they dispute  
12 that the Subject Property passed to SYDNEY S. MACFARLANE by survivorship at  
13 the time of WILLIAM F. MACFARLANE'S death in 2009.

14 2) Defendant, THE UNKNOWN HEIRS AND DEVISEES OF SYDNEY S.  
15 MACFARLANE, may claim a junior interest in the Property by virtue of intestate  
16 succession, devise, transfer or operation of law.

17 3) Defendant, UNITED STATES OF AMERICA, may claim an interest in the Subject  
18 Property under the terms of an additional, subordinate note and deed of trust,  
19 associated with this loan issued to the Secretary of Housing and Urban Development  
20 (the "HUD Loan") in the amount of \$427,500.00. The deed of trust associated with  
21 the HUD Loan is recorded in the official records of Clackamas County as Instrument  
22 No. 2008-079590 on 12/01/2008.

23 4) Defendant, STATE OF OREGON, has or may have a lien against the Property under  
24 the State of Oregon tax deferral program.

25 ///

26 ///

27 ///

1 5) Defendant, ALESON MACFARLANE, may claim a junior interest in the Property by  
2 virtue of intestate succession, devise, transfer or operation of law  
3

4 Signed: 2/13/2018 03:59 PM

5   
6 \_\_\_\_\_  
7 **Circuit Court Judge Michael C. Wetzel**  
8

9  
10 I hereby certify that the requirements of UTCR 5.100 have been satisfied.

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

12 An order of default is being requested with this proposed judgment.  
13

14 Dated: 10/20/2017 and submitted by:

15 **McCarthy & Holthus, LLP**

16 s/ Brady Godbout

17 Brady Godbout OSB No. 132708

18 920 SW 3rd Ave, 1st Floor

19 Portland, OR 97204

20 Phone: (971) 201-3200

21 Fax: (971) 201-3202

22 bgodbout@mccarthyholthus.com

23 Of Attorneys for Plaintiff  
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**LOTS 47 AND 48, LIBERTY LODGE, IN CLACKAMAS COUNTY, OREGON.**