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

MIDFIRST BANK,

Plaintiff,

v.

AMBER R. LUCERO; UNITED STATES OF AMERICA; OREGON AFFORDABLE HOUSING ASSISTANCE CORPORATION; FRENCH PRAIRIE MEADOWS LLC; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV42231
Judge: Thomas M. Hart

WRIT OF EXECUTION IN FORECLOSURE

TO THE MARION COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on April 20, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

MIDFIRST BANK
c/o Bryan Kidder
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$131,079.25, plus post-judgment interest at the statutory rate of 9.0% per annum from April 20, 2017 to March 28, 2018 in the amount of \$11,053.75, and continuing to accrue at \$32.32 *per diem*, currently totaling \$142,133.00.

1 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
2 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
3 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
4 about June 24, 2008, the date of the Deed of Trust, and also the interest that the Defendant had
5 thereafter, in the real property described as:

6 **LOT 38, FRENCH PRAIRIE MEADOWS (A REPLAT OF PARCEL 2,**
7 **PARTITION PLAT NO. 90-30) IN THE CITY OF GERVAIS, COUNTY OF**
8 **MARION AND STATE OF OREGON,**

9 APN/Parcel # R98973, and commonly known as (street address): 227 East Fir Drive,
10 Gervais, OR 97026.

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

Signed: 3/27/2018 04:37 PM


Noel B. Herlitz, Court Clerk



18 Dated: March 22, 2018 and submitted by:

19 **McCarthy & Holthus, LLP**

20 s/ Bryan Kidder

21 Bryan Kidder, OSB No. 140459
22 920 SW 3rd Ave, 1st Floor
23 Portland, OR 97204
24 Phone: (971) 201-3200
25 Fax: (971) 201-3202
26 bkidder@mccarthyholthus.com
27 Of Attorneys for Plaintiff
28

EXHIBIT "1"

LOT 38, FRENCH PRAIRIE MEADOWS (A REPLAT OF PARCEL 2, PARTITION PLAT NO. 90-30), IN
THE CITY OF GERVAIS, COUNTY OF MARION AND STATE OF OREGON.

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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MARION

6 MIDFIRST BANK,

7 Plaintiff,

8 vs.

9 AMBER R. LUCERO; UNITED STATES OF
10 AMERICA; OREGON AFFORDABLE
11 HOUSING ASSISTANCE CORPORATION;
12 FRENCH PRAIRIE MEADOWS LLC;
13 OCCUPANTS OF THE PROPERTY

14 Defendants.

Case No.: 16CV42231
Judge: Thomas M. Hart

GENERAL JUDGMENT OF
FORECLOSURE

15 1.

16 THIS MATTER came before the Court on Plaintiff's motion. All Defendants were duly
17 served with process and failed to appear; the default has been entered against Defendants, and it
18 appearing that Defendants are not incapacitated, protected persons, respondents as defined in
19 ORS 125.005, minors, or in the military service of the United States; now therefore,

20 2.

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

- 22 a. The real property to which this judgment relates is located and situated in Marion County,
23 Oregon, and is commonly known as 227 East Fir Drive, Gervais, OR 97026 (the "Subject
24 Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
25 R98973.
26 b. Plaintiff is entitled to enforce the note dated 6/24/2008 and made, delivered, and executed by
27 Amber R. Lucero ("Borrower") to Home Loan Center Inc., dba Lendingtree Loans in the
28 amount of \$162,400.00 (the "Note"). The Note was transferred to Plaintiff by delivery of

1 possession and by indorsement set forth on the Note.

- 2 c. A deed of trust was made, executed, and delivered by Borrower on or about 6/24/2008 (the
3 "Deed of Trust"). The Deed of Trust was recorded on 7/8/2008 as Reel No. 2972 Page No.
4 195 in the official records of Marion County, Oregon. The Deed of Trust is a valid and
5 perfected lien against all of the Property for and securing the Amount Due. The lien of the
6 Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect
7 until issuance of a Sheriff's Deed.
- 8 d. The Borrower failed to make the payment that was due for 10/1/2015 and has not cured the
9 default. The amount of debt secured by the Deed of Trust that is now due and owing is
10 comprised of the following amounts (the "Amount Due"):

11	a) Unpaid principal balance:	\$114,916.98
12	b) Prejudgment interest accruing from	\$9,382.22
13	9/1/2015 through 4/10/2017 and	
14	continuing until the entry of judgment	
15	at the current Note rate of 5.00%:	
16	c) Additional amounts due under the	\$3,061.71
17	terms of the loan:	
18	d) Attorney fees and costs:	\$3,633.34
19	e) Prevailing party fee (ORS 20.190	\$85.00
20	(1)(b)):	
21	Total:	\$131,079.25

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

- 25 e. The interest of the Defendants and any successor in interest in the Subject Property is
26 foreclosed and terminated excepting only any statutory right of redemption as provided by
27 Oregon law.
- 28 f. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the

1 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a
2 28 U.S.C. § 2410(c) one-year redemption right in this case.

3 g. The Defendant is not entitled to a homestead exception as against Plaintiff's judgment.

4 h. All right, title and interest in the Subject Property that Defendant Amber R. Lucero had as of
5 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
6 Marion County Sheriff's Office in accordance with the process for sale upon execution, and
7 the proceeds of sale shall be applied:

8 1) First, to the costs of sale not incurred by Plaintiff;

9 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
10 entry of judgment through the date of the sale and any incurred costs of sale;

11 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
12 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
13 such party or parties as they may establish their right thereto.

14 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
15 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
16 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

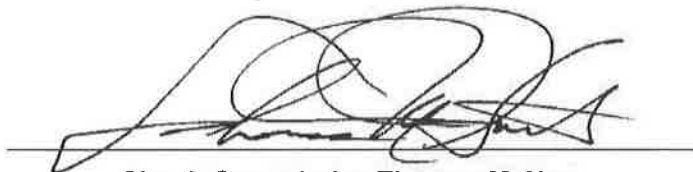
24 l. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
25 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
26 terminated.

27 m. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of
28

1 Trust are as follows:

- 2 1. Defendant UNITED STATES OF AMERICA may claim a junior interest in
3 Subject Property by virtue of a deed of trust recorded on 01/31/2011 as Book
4 3255, page 490 in the official records of Marion County, Oregon.
- 5 2. Defendant OREGON AFFORDABLE HOUSING ASSISTANCE
6 CORPORATION may claim a junior interest in Subject Property by virtue of a
7 Mortgage recorded on 04/21/2014 as Book 3598, Page 182 in the official records
8 of Marion County, Oregon
- 9 3. Defendant FRENCH PRAIRIE MEADOWS LLC may claim a junior interest in
10 Subject Property by virtue of the Planned Unit Development cited in the Deed of
11 Trust.

Signed: 4/20/2017 01:12 PM

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15 **Circuit Court Judge Thomas M. Hart**

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

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

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

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

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

26 No objection has been served on me.

27 I received objections that I could not resolve with the opposing party despite
28 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, _____ agreed to independently file any remaining objection.

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.

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

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 (4) of this rule.

Other: _____

Presented by:

McCarthy & Holthus, LLP

s/ Robert B. Hakari 4/19/2017

Robert B. Hakari, OSB No. 114082

920 SW 3rd Ave, 1st Floor

Portland, OR 97204

Phone: (971) 201-3200

Fax: (971) 201-3202

rhakari@mccarthyholthus.com

Of Attorneys for Plaintiff

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