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cert \$5-
\$2.75

2016 JUN 14 PM 12:50 LF

Court clerk has not verified the figures in
this writ. If you have questions
regarding this writ, please contact your legal
counsel, the issuing attorney, or company.
Debtor may contest this writ by filing a claim
of exception.

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

JAMES B. NUTTER & COMPANY, its
successors in interest and/or assigns,

Case No.: 15CV20651

Plaintiff,

WRIT OF EXECUTION IN
FORECLOSURE

vs.

ROBERT G. WHEELER; UNITED STATES
OF AMERICA; CACH, LLC; AND
OCCUPANTS OF THE PREMISES,

Defendants.

TO THE MULTNOMAH COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on April 8, 2016. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

JAMES B. NUTTER & COMPANY
c/o Robert Hakari, Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

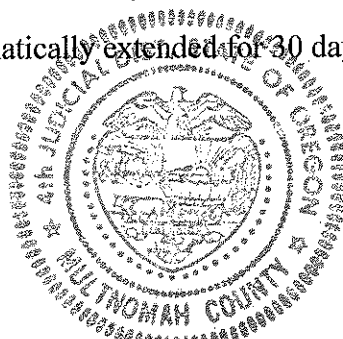
With the adjudicated amount due of \$253,763.36, plus post judgment interest at the statutory rate of 9.0% per annum from April 8, 2016 to March 26, 2018 in the amount of \$44,863.97, and continuing with a per diem of \$62.57, currently totaling \$298,627.33.

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 April 21, 2008, the date of the Deed of Trust, and also the interest that the Defendant had thereafter, in the real property described as follows:

1
2 THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF OR,
3 COUNTY OF MULTNOMAH, CITY OF PORTLAND AND DESCRIBED AS
4 FOLLOWS: LOT 4 BLOCK 3, SHADYWOOD PARK, IN THE CITY OF
5 PORTLAND, COUNTY OF MULTNOMAH AND STATE OF OREGON.
6 ACCESSOR'S PARCEL NO. R269143/152E16BD01400

7 and commonly known as: 5101 SE 88th Ave, Portland, OR 97266.

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



3/27/18

[Handwritten signature]

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15
16 **McCarthy & Holthus, LLP**

3/19/18

17
18 Robert Hakari OSB No. 114082
19 920 SW 3rd Ave, 1st Floor
20 Portland, OR 97204
21 Phone: (971) 201-3200
22 Fax: (971) 201-3202
23 rhakari@mccarthyholthus.com
24 Of Attorneys for Plaintiff
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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
IN AND FOR THE COUNTY OF MULTNOMAH

JAMES B. NUTTER & COMPANY, its
successors in interest and/or assigns,

Plaintiff,

v.

ROBERT G. WHEELER; UNITED STATES
OF AMERICA; CACH, LLC; AND
OCCUPANTS OF THE PREMISES,

Defendants.

Case No. 15CV20651

GENERAL JUDGMENT OF
FORECLOSURE AND SALE
AGAINST:

- (1) ROBERT G. WHEELER
- (2) UNITED STATES OF AMERICA
- (3) CACH, LLC
- (4) OCCUPANTS OF THE PREMISES

1.

THIS MATTER coming regularly before the Court on this day and it appearing from the record herein that plaintiff James B. Nutter & Company, its successors in interest and/or assigns ("Plaintiff"), filed its Complaint for deed of trust foreclosure; that defendants Robert G. Wheeler, United States of America, Cach, LLC and Occupants of the Premises were duly served with the Summons and Complaint as required by law; that defendants Robert G. Wheeler, United States of America, Cach, LLC and Occupants of the Premises failed to appear; and that an Order of Default has been filed concurrently with this Judgment and, consequently this General Judgment of foreclosure is submitted in accordance with UTCR 5.100 (3)(c).

2.

Plaintiff hereby requests this general judgment for foreclosure and sale be entered into the Court's register to accomplish the following: to foreclose any and all interest of defendants Robert G. Wheeler, United States of America, Cach, LLC and Occupants of the Premises in the real property subject to this foreclosure action, located at 5101 Southeast 88th Avenue, Portland, Oregon 97266 (the "Property").

3.

The court being fully advised in the Premise, finding good cause exists so this general judgment of foreclosure and sale may be entered in favor of Plaintiff and against Robert G. Wheeler, United States of America, Cach, LLC and Occupants of the Premises, all of them, it is hereby

ORDERED AND ADJUDGED:

4.

That the Deed of Trust dated April 21, 2008, executed by Robert G. Wheeler for the benefit of James B. Nutter & Company ("Deed of Trust"), recorded on April 28, 2008 as Instrument No. 2008-064394 in the official records of Multnomah County, Oregon, is a valid lien for the amount due and owing as set forth in Paragraph 13 herein, against the Property situated in Multnomah County, Oregon, and described as follows

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF OR, COUNTY OF MULTNOMAH, CITY OF PORTLAND AND DESCRIBED AS FOLLOWS: LOT 4, BLOCK 3, SHADYWOOD PARK, IN THE CITY OF PORTLAND, COUNTY OF MULTNOMAH AND STATE OF OREGON. ASSESSOR'S PARCEL NO. R269143/152E16BD01400

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5.

That the lien of the Deed of Trust is superior to any interest, lien, or claim of defendants Robert G. Wheeler, United States of America, Cach, LLC and Occupants of the Premises in the Property, and that said Deed of Trust is hereby foreclosed by this Court on the Property.

6.

That defendants Robert G. Wheeler, Cach, LLC and Occupants of the Premises, each of them, and all parties claiming by, through, or under them as purchasers, encumbrances, or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and every portion thereof excepting only the statutory right of redemption provided by the laws of the State of Oregon.

7.

That the lien of the defendant, the United States of America, and all parties claiming by, through, or under it, is forever barred and foreclosed of all interest, lien, or claim to the Property and every portion thereof excepting the statutory right of redemption. The lien of the defendant, the United States of America, is a "reverse mortgage" issued by and through the Department of Housing and Urban Development; under Section 255 of the National Housing Act (12 USC § 1715z-20). Pursuant to 12 USC § 1701k, the United States is not entitled to a redemption period which exceeds the statutory right of redemption under the laws of the State of Oregon.

8.

That defendants Robert G. Wheeler, United States of America, Cach, LLC and Occupants of the Premises, all of them, are not entitled to a homestead exemption as against Plaintiff's Deed of Trust.

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9.

That all of the right, title and interest which Robert G. Wheeler had on April 21, 2008, the date of the Deed of Trust, and all of the right, title and interest defendants Robert G. Wheeler, United States of America, Cach, LLC and Occupants of the Premises and any successor thereafter had in and to the real Property is hereby ordered to be sold by law, and the proceeds of sale shall be applied first toward the sheriff's fees and costs of sale, then toward the satisfaction of the amount due and owing set forth in Paragraph 13 herein; and the surplus, if any, to the Clerk of the Court to be disbursed to such party or parties as may establish their right thereto.

10.

That Plaintiff may become purchaser at the sheriff's sale of the Property and may bid up to the aggregate amount due and owing set forth in Paragraph 13 herein, plus interest from the date of this Judgment until sale without advancing any cash except money required for the sheriff's sale.

11.

That the Plaintiff, if the successful purchaser of the Property at the sheriff's sale, reserves the right to motion the court after sale for exclusive and immediate possession of the Property through the issuance and enforcement of a writ of assistance, should defendants Robert G. Wheeler, United States of America, Cach, LLC and Occupants of the Premises refuse to surrender possession of the Property immediately upon the purchaser's demand for possession.

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12.

That Plaintiff is entitled to, and is hereby awarded its attorney fees and costs incurred in this action, and that Plaintiff's attorney fees in the amount of \$2,050.00 and its litigation costs in the amount of \$1,032.79, shall be, and is hereby declared additional amounts secured by and hereinafter shall be made part of the amount of the debt secured by Plaintiff's Deed of Trust.

DECLARATION OF DEBT SECURED BY DEED OF TRUST

(Pursuant to Senate Bill 368)

13.

Under the terms of the Deed of Trust and the promissory note dated April 21, 2008, in the principal amount of \$382,500.00, there is now due and owing the following amounts, to be hereinafter described as the Amount Due:

Attorneys' Fees and Costs

Attorneys' Fees		\$2,050.00
Filing Fee - Complaint	\$531.00	
Recording Fee - Lis Pendens	\$46.00	
Process Service Fees	\$435.00	
Courier and Mailing Costs	\$20.79	
	Total Costs	\$1,032.79
	<i>Total Attorneys' Fees and Costs</i>	\$3,082.79

Lenders' Principal and Interest

Principal Balance	\$249,223.77	
Accrued Interest from October 1, 2015, to October 29, 2015, the date calculated by the declarant in the declaration of indebtedness at 2.100% per annum.	\$417.80	
	<i>Total Principal & Interest</i>	\$249,641.57

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1 **Lenders' Fees and Costs**

2 MIP Insurance \$99.00
3 Service Fee \$35.00
4 Attorney Fees and Costs \$905.00

5 **Total Lenders' Fees and Costs: \$1,039.00**

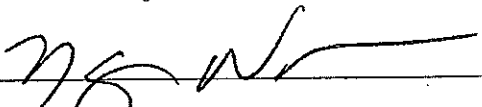
6 **Total Lenders' Principal, Interest, Fees, and Costs: \$250,680.57**

7 Additional pre-judgment interest pursuant to ORS
8 18.042 from October 29, 2015 to the date of entry
9 of judgment at the contract rate of interest (\$14.41
per diem).

10 Post-Judgment interest thereafter on the Total
11 Amount Due at the contract rate of interest, or
9.000% per annum, whichever is greater.

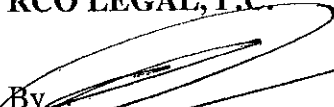
12 **Total Amount Due \$253,763.36**

Signed: 3/10/2016 04:05 PM


Circuit Court Judge Nan G. Waller
proxy signed by KRR

19 Presented by:

20 **RCO LEGAL, P.C.**

21 
22 By Erik Wilson, OSB # 095507
23 Attorney for Plaintiff
24 511 SW 10th Ave., Ste. 400
25 Portland, OR 97205
26 T: 503-977-7840; F: 503-977-7963
ewilson@rcolegal.com

DATED 2/10/16

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
IN AND FOR THE COUNTY OF MULTNOMAH

JAMES B. NUTTER & COMPANY, its
successors in interest and/or assigns,

Plaintiff,

v.

ROBERT G. WHEELER; UNITED STATES
OF AMERICA; CACH, LLC; AND
OCCUPANTS OF THE PREMISES,

Defendants.

Case No. 15CV20651

**CERTIFICATE OF UTCR 5.100
COMPLIANCE FOR GENERAL
JUDGMENT OF FORECLOSURE
AND SALE**

[EX PARTE]

This Proposed order or judgment is ready for judicial signature because:

- A. The order or judgment was served on the opposing counsel not less than 3 days prior to submission to the court, or mailed to a self-represented party at the party's last known address not less than 7 days prior to submission to the court with a notice of the time period to object.
- B. The order or judgment is accompanied by a stipulation by opposing counsel that no objection exists as to the judgment or order.
- C. The judgment or order is exempt from UTCR 5.100(1) because:
 - a. The judgment or order is a proposed order or judgment presented in open court with the parties present.
 - b. The judgment or order is of a kind that may be presented *ex parte* and has been submitted either in person or by mail *ex parte*.
 - c. The judgment is a proposed judgment after an order for default has already been entered or is being simultaneously requested against the opposing party.
 - d. The proposed judgment is subject to UTCR 10.0099

CERTIFICATE OF UTCR 5.100 COMPLIANCE FOR
GENERAL JUDGMENT OF FORECLOSURE AND
SALE - 1

**RCO
LEGAL, P.C.**

511 SW 10th Ave., Ste. 400
Portland, OR 97205
Phone: 503.977.7840
Fax: 503.977.7963

1 e. The proposed judgment or order is an uncontested probate and protective
2 proceeding.

3 f. This matter is certified to the court under ORS 416.422, 416.430, 416.435, or
4 416.448.

5 D. In compliance with UTCR 5.100(2)(b), the drafting party certifies the following as to
6 why the proposed judgment or order is ready for a judicial signature:

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

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

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

13 a. No objection has been served on me.

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

17 c. After conferring about objections, [role and name of opposing party] agreed to
18 independently file any remaining objection.

19 4. The relief sought is against an opposing party who has been found to be in default.

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

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

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

26 Dated this 10 day of February 2016

By, 

Erik Wilson OSB#095507

Attorney for Plaintiff