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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF KLAMATH**

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

TONYA L. BOYD, an individual;
ANASTASIA MARIE BOYD, an individual;
PORTFOLIO RECOVERY ASSOCIATES, a
corporation; CARTER-JONES
COLLECTION SERVICES, a corporation;
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: 16CV01121

WRIT OF EXECUTION IN FORECLOSURE

TO: THE SHERIFF OF KLAMATH COUNTY, OREGON:

1.

WHEREAS, on February 14, 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 TONYA L. BOYD, ANASTASIA MARIE BOYD, PORTFOLIO RECOVERY ASSOCIATES and CARTER-JONES COLLECTION SERVICES ("Defendants") had on December 7, 2009, the date of the foreclosed

1 Deed of Trust which was recorded on December 11, 2009, as Instrument No. 2009-015656 in the
2 official records of the Klamath County Recorder's Office, and/or all of the interest which
3 Defendants had thereafter, in the real property described in the Judgment to satisfy the Judgment as
4 follows:

5
6 **Lender's Principal Judgment:**

Unpaid Principal Balance:	\$85,002.25
Pre-Judgment Interest from October 1, 2014 to February 9, 2017, the date set forth in the Judgment at 5.250%, per annum, (\$12.2263 per diem):	\$10,784.52
Lender's Fees and Costs:	\$5,445.91
Attorney's Fees and Costs:	\$3,153.00
<i>Total Judgment Entered:</i>	<i>\$104,385.68</i>

12
13 **Additional Pre-Judgment Interest:**

Accrued Interest from February 10, 2017, the day after the date set forth in the Judgment through February 14, 2017, the date of entry of the Judgment, at 5.2500%, per annum (\$12.2263 per diem):	\$48.91
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17
18 ***Total Judgment Entered Including
Additional Pre-Judgment
Interest:***

	<i>\$104,434.59</i>
--	----------------------------

19
20 3.

21 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on ***\$104,434.59*** at
22 the legal rate of interest of 9% per annum, \$25.75 per diem, from February 15, 2017 to the date the
23 real property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus
24 costs of this Writ, Sheriff's fees and sale costs, and all other recovered costs pursuant to law.

25 4.

26 The real property subject to this writ of execution is commonly known as 826 NORTH 10TH
27 STREET, KLAMATH FALLS, OR 97601 ("Property") and described in Exhibit "1" attached
28 hereto.

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5.

The Judgment Creditor's name and address is:

BANK OF AMERICA, N.A.

100 N. Tryon St.

Charlotte, North Carolina 28255

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

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.

John M Powell
TRIAL COURT ADMINISTRATOR

April 6, 2018



by [Signature]

~~Submitted by:~~

Dated: 3/22/18

~~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~~

EXHIBIT 1

Legal Description

Lot K in Block A, NICHOLS ADDITION TO THE CITY OF KLAMATH FALLS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF KLAMATH**

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

**TONYA L. BOYD, an individual;
ANASTASIA MARIE BOYD, an individual;
PORTFOLIO RECOVERY ASSOCIATES, a
corporation; CARTER-JONES
COLLECTION SERVICES, a corporation;
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: 16CV01121

**GENERAL JUDGMENT OF
FORECLOSURE AGAINST:**

- 1. TONYA L. BOYD**
- 2. ANASTASIA MARIE BOYD**
- 3. PORTFOLIO RECOVERY ASSOCIATES**
- 4. CARTER-JONES COLLECTION SERVICES**

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 TONYA L. BOYD, ANASTASIA MARIE BOYD, PORTFOLIO RECOVERY ASSOCIATES and CARTER-JONES COLLECTION SERVICES ("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 DEFENDANTS ANASTASIA MARIE BOYD, TONYA L. BOYD, PORTFOLIO RECOVERY ASSOCIATES AND CARTER-

1 JONES COLLECTION SERVICES has been entered against them on Plaintiff's Complaint, and that
2 Plaintiff is entitled to entry of a General Judgment foreclosing Plaintiff's deed of trust against the
3 property commonly known as 826 NORTH 10TH STREET, KLAMATH FALLS, OR 97601
4 ("Property") and extinguishing any and all interest of the Defendants in the Property.

5 2.

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

8 3.

9 Plaintiff is the holder of that certain promissory note ("Note"), dated December 7, 2009, in
10 the amount of \$91,805.00, and executed by ANASTASIA MARIE BOYD and TONYA L. BOYD.

11 4.

12 The Note is secured by that certain deed of trust ("Deed of Trust") executed on or about
13 December 7, 2009, by ANASTASIA MARIE BOYD and TONYA L. BOYD. The Deed of Trust
14 was recorded on December 11, 2009 under the recording number 2009-015656 of the Official
15 Records of Klamath County, Oregon, against the Property, which is legally described Exhibit "1"
16 attached hereto ("Property") and constitutes a valid lien against the Property.

17 5.

18 Defendants ANASTASIA MARIE BOYD and TONYA L. BOYD failed to comply with the
19 terms of the Note and Deed of Trust by failing to make the payments required by the terms of the
20 Note and Deed of Trust. Pursuant to the terms of the Note and Deed of Trust, Plaintiff declared all
21 sums due and owing under the Note and Deed of Trust immediately due and payable.

22 6.

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

27 7.

28 A judgment of foreclosure in the amount of \$104,385.68 shall be granted in favor of Plaintiff,

and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
Not a Money Award (“Amount Owed”).

8.

The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the satisfaction of Plaintiff's Amount Owed 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.

9.

Plaintiff is entitled to recover its reasonable attorney's fees and all reasonable and necessary costs and expenses incurred to enforcing the Note and Deed of Trust.

10.

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

11.

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

12.

Defendants ANASTASIA MARIE BOYD and TONYA L. BOYD are not entitled to a homestead exemption in the Property.

13.

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

14.

The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate

1 possession of the Property from and after the date of the sale, and is entitled to such remedies as are
2 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
3 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
4 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

5 15.

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

9 16.

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

12 17.

13 This suit does not constitute an attempt to collect the debt against Defendants ANASTASIA
14 MARIE BOYD and TONYA L. BOYD. Rather, it is a suit to execute upon the Property as security
15 for the Amount Owed.

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

17 **(Pursuant to Senate Bill 368)**

18 18.

19 Under the terms of the Deed of Trust and the Note dated December 7, 2009, in the original
20 principal amount of \$91,805.00, there is now due and owing the following amounts, to be hereinafter
21 described as the Amount Due:

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, 2 nd Floor 27 Irvine, California 92612 28

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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:

\$101,232.68

4. Pre-Judgment Interest:

Simple interest to accrue on \$85,002.25 from February 10, 2017 to the date the Judgment is entered into the Court's register at 5.25000% per annum, \$12.2263 per diem.

5. Post-Judgment Interest:

Simple interest to accrue on \$104,385.68 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 and Costs:

An award of \$3,153.00 in attorney's fees and costs is made.

Signed: 2/9/2017 04:34 PM

Circuit Court Judge Marci W. Adkisson

Submitted by:

Dated:

2/8/17

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

EXHIBIT 1

Legal Description

Lot K to Block A, NICHOLS ADDITION TO THE CITY OF KLAMATH FALLS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.


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CERTIFICATE OF READINESS

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

- Service is not required under UTCR 5.100 because the other party has been found in default or an order of default is being requested with this proposed Order or Judgment; because this Order or Judgment is submitted ex parte as allowed by statute or rule; or this Order or Judgment is being submitted in open court with all parties present.
- Each party affected by this Order or Judgment has stipulated to or approved the Order or Judgment, as shown by the signatures on the Order or Judgment.
- I have served a copy of this Order or Judgment and written notice of the objection period set out in UTCR 5.100 on all parties entitled to service and:
 - No objections have been served on me within that time frame;
 - I received objections that I could not resolve with the other party despite reasonable efforts to do so. I have filed with the Court a copy of the objections I received and indicated which objections remain unresolved.
 - After conferring about objections, the other party agreed to file any remaining objection with the Court.

DATED: 2/8/17

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)