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

EVERBANK

Plaintiff,

vs.

CARL THOMAS FERRIS; DAHNIEL  
FERRIS; FALCON HEIGHTS  
CONDOMINIUM ASSOCIATION, INC.;  
PARTIES OF POSSESSION

Defendants.

Case No. 17cv48407

WRIT OF EXECUTION

TO: KLAMATH COUNTY SHERIFF

WHEREAS, on April 4, 2018, in the above-entitled court, a General Judgment of Foreclosure and Sale, with said Judgment containing therein a Declaration of Amount Due and was duly entered and docketed in the above-entitled cause

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 execution (subject to redemption) all of the interest which the defendants had on August 29, 2013, the date of the deed of trust, and also all of the interest which the defendants acquired thereafter, in the real property described in the judgment:

THE LAND REFERRED IN THIS POLICY IS SITUATED IN THE STATE OF OREGON, COUNTY OF KLAMATH, AND DESCRIBED AS FOLLOWS:

1- WRIT OF EXECUTION  
S&S No. 17-121001

SHAPIRO & SUTHERLAND, LLC  
7632 SW Durham Road, Suite 350, Tigard, OR 97224  
Telephone (360)260-2253 (800)970-5647  
Fax (360)260-2285  
ksutherland@logs.com

1 UNIT 10755 (PREDDY AVENUE), TRACT 1365, FALCON HEIGHTS CONDOMINIUMS  
2 STAGE 2, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE  
3 OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

4 and commonly known as 10755 Preddy Ave, Klamath Falls, OR 97603 to satisfy the sum of  
5 \$109,210.43, as of April 11, 2018, together with additional post judgment interest of 9.00% from  
6 that date (\$26.88 per day), and costs of this execution, making due return within 60 days after  
7 you receive this writ.

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25 2- WRIT OF EXECUTION  
26 S&S No. 17-121001

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1 EverBank is the Judgment Creditor, and its address for purpose of this writ only is: C/O  
2 Shapiro & Sutherland, LLC, 7632 SW Durham Road, Suite 350, Tigard, OR 97224 (360)260-  
3 2253. Shapiro & Sutherland, LLC is the attorney for the Judgment Creditor.  
4



5  
6  
7  
8  
9 Marcela Flores  
10 April 18, 2018 CartClerk

11 Submitted by:  
12 Attorneys for Plaintiff,  
13 SHAPIRO & SUTHERLAND, LLC

14 By: \_\_\_\_\_

15  James A. Craft #090146 [jcraft@logs.com]  
16 [ ] Kelly D. Sutherland #87357 [ksutherland@logs.com]  
17 [ ] Cara J. Richter #094855 [crichter@logs.com]  
18 [ ] Holger Uhl #950143 [huhl@logs.com]\*  
19 1499 SE Tech Center Place, Suite 255, Vancouver, WA 98683  
20 7632 SW Durham Road, Suite 350, Tigard, OR 97224\*  
21 (360)260-2253; Fax (360)260-2285

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25 3- WRIT OF EXECUTION  
26 S&S No. 17-121001

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

EVERBANK,

Plaintiff,

vs.

CARL THOMAS FERRIS; DAHNIEL FERRIS;  
FALCON HEIGHTS CONDOMINIUM  
ASSOCIATION, INC.; PARTIES OF  
POSSESSION,

Defendants.

Case No. 17cv48407

GENERAL JUDGMENT OF  
FORECLOSURE AND SALE

It is hereby

ORDERED AND ADJUDGED:

1. The real property to which this judgment relates (hereafter the "Property") is situated in Klamath County, Oregon is commonly known as 10755 Preddy Ave, Klamath Falls, OR 97603 and is legally described as follows:

1 - GENERAL JUDGMENT OF FORECLOSURE AND  
SALE  
S&S No. 17-121001

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Fax (360)260-2285  
ksutherland@logs.com

1 The land referred in this policy is situated in the STATE OF Oregon, COUNTY OF  
2 KLAMATH, and described as follows:

3 UNIT 10755 (PREDDY AVENUE), TRACT 1365, FALCON HEIGHTS  
4 CONDOMINIUMS STAGE 2, ACCORDING TO THE OFFICIAL PLAT THEREOF  
5 ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY,  
6 OREGON.

- 7
- 8 2. The Deed of Trust executed and delivered by Defendant, Carl T. Ferris and Dahniel Ferris,  
9 as Husband and Wife ("Borrower") on or about August 29, 2013 and recorded on September  
10 27, 2013 as Instrument No. 2013-010984 in the official records of Klamath County, Oregon,  
11 is a valid and perfected lien against all of the Property for the amount of Plaintiff's judgment  
12 as provided herein.
- 13 3. The Plaintiff is the holder of the original note dated August 29, 2013 and made by Carl T  
14 Ferris and Dahniel Ferris in the amount of \$100,000.00. A copy of the Note was attached to  
15 the complaint as Exhibit. Plaintiff is the holder of the Note and the beneficial interest in the  
16 Deed of Trust (together the "Loan").
- 17 4. The interest of each of the Defendant(s) subject to this Judgment and any successor in  
18 interest in the Property is foreclosed and terminated excepting only any statutory right of  
19 redemption as provided by Oregon law.
- 20 5. The lien of the Plaintiff is superior to any interest, lien, or claim of the remaining  
21 Defendants and shall remain in effect until issuance of a Sheriff's Deed. Upon Motion to  
22 the Court and good cause shown, Plaintiff may move to rescind the foreclosure judgment  
23 and to reinstate the Loan prior to the Sheriff's sale, returning the parties to their pre-judgment  
24 interests and priorities.

- 1 6. The Defendant(s) are not entitled to a homestead exception as against Plaintiff's judgment.
- 2 7. All of the rights, title and interest that Borrower(s) had as of the date of the Deed of Trust or
- 3 thereafter acquired in the subject Property, is hereby ordered to be sold by the Klamath
- 4 County Sheriff's Office in accordance with the process for sale upon execution, and the
- 5 proceeds of sale shall be applied; first to the costs of sale; second to satisfaction of the
- 6 amounts awarded Plaintiff herein; with the surplus, if any, to the Defendants in the priority
- 7 as their interest may appear or to the clerk of the court to be distributed to such party of
- 8 parties as may establish their right thereto.
- 9
- 10 8. Plaintiff or any junior lienholders may become purchaser at the sale of the Property.
- 11
- 12 9. The purchaser at the sale is entitled to exclusive and immediate possession of the Property
- 13 from and after the date of the sale and is entitled to such remedies as are available at law or
- 14 in equity to secure possession.
- 15 10. The purchaser at the sale may apply to the Court for a writ of assistance if any Defendant or
- 16 any person holding possession under or through such Defendant(s) shall refuse to surrender
- 17 possession to the purchaser immediately on the purchaser's demand for possession.

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11. Under the terms of the Loan there is now due and owing to Plaintiff the following amounts:

Principal		\$95,167.27	
Prejudgment interest at 5.125% through January 20, 2018 (accruing thereafter until entry of judgment at \$13.36 per diem)			\$5,944.05
Late Charges		\$108.88	
Other Costs and fees (recoverable)		2,328.93	
Property Tax	\$1,204.87		
Hazard Insurance	\$421.00		
PMI/MIP	\$568.06		
Property Inspections	\$135.00		
	Subtotal		\$97,605.08
Total plus Prejudgment Interest			\$103,549.13

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12. Attorney Fees and Costs are awarded to Plaintiff as follows:

Costs			\$1,434.50
Title Search Cost		\$285.00	
Filing Fee		\$560.00	
Lis Pendens Recording Fee		\$47.00	
Service Costs		\$267.50	
Prevailing Party Fee		\$275.00	
Attorney fees			\$3,050.00
Total			\$4,484.50

13. Post judgment interest on the aggregate of all amounts declared due above shall accrue from the date of judgment at the legal rate of 9% per annum pursuant to ORS 82.010.

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4 - GENERAL JUDGMENT OF FORECLOSURE AND SALE  
S&S No. 17-121001

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1 14. This Judgment shall not create a personal lien or liability against Borrower except as is  
2 customary or necessary to execute on such Judgment and for purposes of redemption. In no  
3 event should it be construed as establishing personal liability for any persons whose debt has  
4 been extinguished in bankruptcy or by an In Rem order granting relief from stay, but only to  
5 foreclose the deed of trust mortgage. In the event the proceeds of sale are insufficient to pay  
6 the amounts due to Plaintiff, no general execution shall be issued and Plaintiff shall not be  
7 entitled to any further judgment, including a judgment for deficiency.  
8

9 15. Execution may issue against the subject property for the aggregate amount found due  
10 Plaintiff herein as detailed in Paragraphs 11 through 13 together (together "Amounts Due").  
11 Plaintiff may credit bid up to the Amounts Due plus such additional amounts as provided by  
12 ORS 18.936 or other applicable law.  
13

14 16. If before sale such amount, including sheriff's fees for the execution, is tendered to the  
15 Court and paid to the clerk, the execution, if issued, shall be recalled and the effect of the  
16 judgment as to the amounts due shall be terminated.  
17

18 17. The Clerk of the Court is hereby ordered to issue a Writ of Execution in Foreclosure for the  
19 sale of the Property. Plaintiff may credit bid the amounts determined in Paragraphs 11  
20 through 13 plus such additional amounts as provided in Paragraph 16 for purposes of ORS  
21 18.936.  
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26 § - GENERAL JUDGMENT OF FORECLOSURE AND  
27 SALE  
28 S&S No. 17-121001

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1 18. This Court shall retain jurisdiction to enter such additional order, judgment or decree  
2 necessary to enforce this judgment, the writ of execution or for the purchaser at the  
3 foreclosure sale to obtain possession.  
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Signed: 4/3/2018 12:52 PM



11  
12 **Circuit Court Judge Andrea Janney**

13 **Certificate of Readiness under UTCR 5 100**

14 This proposed order or judgment is ready for judicial signature because:

- 15 1.  Each party affected by this order or judgment has stipulated to the order or judgment, as  
16 shown by each party's signature on the document being submitted.  
17 2.  Each party affected by this order or judgment has approved the order or judgment, as  
18 shown by each party's signature on the document being submitted or by written confirmation of  
19 approval sent to me.  
20 3.  I have served a copy of this order or judgment on each party entitled to service and:  
21 a.  No objection has been served on me.  
22 b.  I received objections that I could not resolve with a party despite reasonable efforts to do  
23 so. I have filed a copy of the objections I received and indicated which objections remain  
24 unresolved.  
25 c.  After conferring about objections, [role and name of objecting party] agreed to  
26 independently file any remaining objection.

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25 6 - GENERAL JUDGMENT OF FORECLOSURE AND  
26 SALE  
27 S&S No. 17-121001

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1 4.  Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or  
2 otherwise. UTCR 8/1/16 5.5 (including out-of-cycle amendment of 5.100)

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

6 6.  Other: \_\_\_\_\_

7 Submitted by:  
8 Attorneys for Plaintiff,  
9 SHAPIRO & SUTHERLAND, LLC

10 By: \_\_\_\_\_

 4-2-18

11  James A. Craft #090146 [jcraft@logs.com]  
12  Kelly D. Sutherland #87357 [ksutherland@logs.com]  
13  Cara J. Richter #094855 [crichter@logs.com]  
14  Hoiger Uhl #950143 [huhl@logs.com]\*  
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25 7- GENERAL JUDGMENT OF FORECLOSURE AND  
26 SALE  
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