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

BANK OF AMERICA, N.A.,

CASE NUMBER: 16CV27343

Plaintiff,

vs.

WRIT OF EXECUTION IN FORECLOSURE

KIMBERLY A. GUSTAFSON, an individual;
NATHAN A. GUSTAFSON, an individual;
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.

TO: THE SHERIFF OF LANE COUNTY, OREGON:

1.

WHEREAS, on January 12, 2018, 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

1 redemption, if applicable), all of the interest which the Defendants KIMBERLY A. GUSTAFSON,
2 NATHAN A. GUSTAFSON ("Defendants") had on January 21, 2010, the date of the foreclosed
3 Deed of Trust which was recorded on January 27, 2010, as Instrument No. 2010-004508 in the
4 official records of the Lane County Recorder's Office, and/or all of the interest which Defendants
5 had thereafter, in the real property described in the Judgment to satisfy the Judgment as follows:
6

7 **Lender's Principal Judgment:**

8 Unpaid Principal Balance: \$238,553.93

9 Pre-Judgment Interest from December
10 1, 2012 to September 30, 2017, the date
11 set forth in the Judgment at 5.250%, per

12 annum, (\$34.79 per diem): \$60,532.86

13 Lender's Fees and Costs: \$16,753.41

14 Attorney's Fees and Costs: \$1,785.00

15
16 ***Total Judgment Entered:*** \$317,625.20

17
18 **Additional Pre-Judgment Interest:**

19 Accrued Interest from October 1, 2017,
20 the day after the date set forth in the
21 Judgment through January 12, 2018, the
22 date of entry of the Judgment, at

23 5.250%, per annum (\$34.31 per diem): \$3,533.93

24
25 ***Total Judgment Entered Including***

26 ***Additional Pre-Judgment***

27 ***Interest:*** \$321,159.13

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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.

March 13, 2018

By: *Angie Jones*
Court Clerk



Submitted by:

[Handwritten signature]

Dated: 3/7/18

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"

Lots 7 and 8, Block 6, WESTMORELAND ADDITION to Eugene, as platted and recorded in Volume 8, Page 26, Lane County Oregon Plat Records, in Lane County, Oregon.

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

BANK OF AMERICA, N.A.,

CASE NUMBER: 16CV27343

Plaintiff,

vs.

GENERAL JUDGMENT OF
FORECLOSURE AGAINST:

KIMBERLY A. GUSTAFSON, an individual;
NATHAN A. GUSTAFSON, an individual;
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.

- 1. KIMBERLY A. GUSTAFSON
- 2. NATHAN A. GUSTAFSON

Defendants.

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 KIMBERLY A. GUSTAFSON and NATHAN A. GUSTAFSON ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that an order of default has been entered against them on Plaintiff's Complaint, and that Plaintiff is entitled to entry of a General Judgment foreclosing Plaintiff's deed of

1 trust against the property commonly known as 1735 WEST 10TH AVENUE, EUGENE, OR 97402
2 ("Property") and extinguishing any and all interest of the Defendants in the Property.

3 2.

4 The Court being fully advised; it is hereby
5 ORDERED AND ADJUDGED that:

6 3.

7 Plaintiff is the holder of that certain promissory note ("Note"), dated January 21, 2010, in the
8 amount of \$252,340.00, and executed by NATHAN A. GUSTAFSON and KIMBERLY A.
9 GUSTAFSON.

10 4.

11 The Note is secured by that certain deed of trust ("Deed of Trust") dated January 21, 2010
12 and executed by NATHAN A. GUSTAFSON and KIMBERLY A. GUSTAFSON. The Deed of
13 Trust was recorded on January 27, 2010 under the recording number 2010-004508 of the Official
14 Records of Lane County, Oregon, against the Property, which is legally described as: see Exhibit "1"
15 attached hereto. ("Property") and constitutes a valid lien against the Property.

16 5.

17 The terms of the Note and Deed of Trust are in breach, therefore, Plaintiff has now declared
18 all sums due and owing under the Note and Deed of Trust as immediately due and payable.

19 6.

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

24 7.

25 A judgment of foreclosure in the amount of \$317,625.20 shall be granted in favor of Plaintiff,
26 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
27 Not a Money Award ("Amount Owed").

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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 NATHAN A. GUSTAFSON and KIMBERLY A. GUSTAFSON 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 possession of the Property from and after the date of the sale, and is entitled to such remedies as are available at law to secure possession of the Property, and may apply to the Clerk of the Court for a

1 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
2 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

3 15.

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

7 16.

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

10 17.

11 This suit does not constitute an attempt to collect the debt against Defendants NATHAN A.
12 GUSTAFSON and KIMBERLY A. GUSTAFSON. Rather, it is a suit to execute upon the Property
13 as security for the Amount Owed.

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

15 (Pursuant to Senate Bill 368)

16 18.

17 Under the terms of the Deed of Trust and the Note dated January 21, 2010, in the original
18 principal amount of \$252,340.00, there is now due and owing the following amounts, to be
19 hereinafter described as the Amount Due:

20
21 **DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD**

22 **1. Judgment Creditor:**

BANK OF AMERICA, N.A.

23 Address:

c/o MALCOLM ♦ CISNEROS,

24 A Law Corporation

25 2112 Business Center Drive, 2nd Floor

26 Irvine, California 92612

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Judgment Attorney: Nathan F. Smith
Address: MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
Telephone Number: (949) 252-9400

2. Persons or Public Bodies Entitled to a Portion the Judgment:

N/A

3. Judgment Amount:

\$315,840.20

4. Pre-Judgment Interest:

Simple interest to accrue on \$238,553.93 from October 1, 2017 to the date the Judgment is entered into the Court's register at 5.250% per annum, \$34.31 per diem.

5. Post-Judgment Interest:

Simple interest to accrue on \$317,625.20 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:

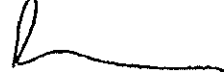
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7. Attorney's Fees:

An award of \$1,785.00 in attorney's fees is made.

Signed: 1/11/2018 03:46 PM



R. Curtis Conover, Circuit Court Judge

Submitted by:



Dated: _____

1/9/18

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

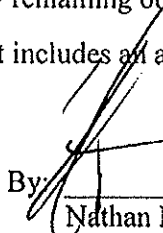
Lots 7 and 8, Block 6, WESTMORELAND ADDITION to Eugene, as platted and recorded in Volume 8, Page 26, Lane County Oregon Plat Records, in Lane County, Oregon.

1 CERTIFICATE OF READINESS

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

- 3 Service is not required pursuant to subsection (3) of UTCR 5.100, or by statute, rule
4 or otherwise.
- 5 The relief sought is against an opposing party who has been found in default.
- 6 An order of default is being requested with this proposed judgment.
- 7 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
9 submitted.
- 10 Each opposing party affected by this order or judgment has approved the order or
11 judgment, as shown by signature on the document being submitted or by written
12 confirmation of approval sent to me.
- 13 I have served a copy of this order or judgment on all parties entitled to service and:
14 No objection has been served on me.
15 I received objections that I could not resolve with the opposing party despite
16 reasonable efforts to do so. I have filed a copy of the objections I received and
17 indicated which objections remain unresolved.
- 18 After conferring about objections, [role and name of opposing party] agreed
19 to independently file any remaining objection.
- 20 This is a proposed judgment that includes an award of punitive damages.

21 DATED: 1/4, 2018

22 By: 
23 Nathan F. Smith, OSB #120112
24 Attorney for Plaintiff
25 MALCOLM ♦ CISNEROS, A Law Corporation
26 2112 Business Center Drive, Second Floor
27 Irvine, California 92612
28 (949) 252-9400 (TELEPHONE)
(949) 252-1032 (FAX)