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

NATIONSTAR MORTGAGE LLC D/B/A
CHAMPION MORTGAGE COMPANY,

Case No.: 17CV25908

Plaintiff,

WRIT OF EXECUTION IN
FORECLOSURE

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF ROBERT J. KNEALE; THE UNKNOWN
HEIRS AND DEVISEES OF MARY E.
KNEALE; UNITED STATES OF AMERICA;
STATE OF OREGON; CHARLES PELROY;
OCCUPANTS OF THE PROPERTY,

Defendants.

TO THE LANE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on March 7, 2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

NATIONSTAR MORTGAGE LLC
D/B/A CHAMPION MORTGAGE COMPANY
c/o Andreanna Smith
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$156,329.64, plus post judgment interest at the statutory rate
2 of 9.0% per annum from March 7, 2018 to April 10, 2018 in the amount of \$1,310.70, and
3 continuing with a per diem of \$38.55, currently totaling \$157,640.34.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
7 about April 15, 2008, the date of the Deed of Trust, and also the interest that the Defendant had
8 thereafter, in the real property described as follows in attached Exhibit 1, APN/Parcel #1565629,
9 and commonly known as 1224 Bramblewood Lane, Eugene, OR 97404.

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

15
16 *April 10, 2018*

17 *By: [Signature]*
18 *Court Clerk*

19 Dated: 4/6/2018 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Andreanna C. Smith

22 Andreanna Smith OSB No. 131336

23 920 SW 3rd Ave, 1st Floor

24 Portland, OR 97204

25 Phone: (971) 201-3200

26 Fax: (971) 201-3202

27 ansmith@mccarthyholthus.com

28 Of Attorneys for Plaintiff



Exhibit “1”

LOT 21, BRAMBLEWOOD SUBDIVISION, PHASE II, AS PLATTED AND RECORDED IN FILE 75,
SLIDES 344, 345, 346, AND 347, 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

NATIONSTAR MORTGAGE LLC D/B/A
CHAMPION MORTGAGE COMPANY,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF ROBERT J. KNEALE; THE
UNKNOWN HEIRS AND DEVISEES OF
MARY E. KNEALE; UNITED STATES OF
AMERICA; STATE OF OREGON;
CHARLES PELROY; OCCUPANTS OF
THE PROPERTY;

Defendants.

Case No.: 17CV25908

GENERAL JUDGMENT OF
FORECLOSURE

I.

THIS MATTER came before the Court on Plaintiff's motion.

- a. Defendants THE UNKNOWN HEIRS AND DEVISEES OF ROBERT J. KNEALE; THE UNKNOWN HEIRS AND DEVISEES OF MARY E. KNEALE; UNITED STATES OF AMERICA; CHARLES PELROY; and OCCUPANTS OF THE PROPERTY ("Defaulted Defendants") were duly served with process and failed to appear; the default has been entered against Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States;
- b. A Stipulated Limited Judgment has been entered with regard to Defendant STATE OF OREGON ("Stipulating Defendants") (collectively Defaulted and Stipulating Defendants are referred to as "Defendants").

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

a. The real property to which this judgment relates is located and situated in Lane County, Oregon, and is commonly known as 1224 Bramblewood Lane, Eugene, OR 97404 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 1565629 .

b. Plaintiff is entitled to enforce the note dated April 15, 2008 and made, delivered, and executed by ROBERT J. KNEALE and MARY E. KNEALE to LIBERTY REVERSE MORTGAGE, INC. in the amount of \$246,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.

c. A deed of trust was made, executed, and delivered by Defendants ROBERT J. KNEALE and MARY E. KNEALE on or about April 15, 2008 (the "Deed of Trust"). The Deed of Trust was recorded on April 22, 2008 as Instrument No. 2008-022572 in the official records of Lane County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.

d. The Borrowers are now deceased and the loan is in default. The amount of debt secured by the Deed of Trust that is now due and owing is comprised of the following amounts (the "Amount Due"):

- a) Unpaid principal balance: \$107,791.55
- b) Prejudgment interest accruing from 4/15/2008 through 2/6/2018 and continuing until the entry of judgment at the current Note rate of 3.13%: \$24,596.28
- c) Additional amounts due under the terms of the loan: \$18,924.07
- d) Attorney fees and costs: \$4,932.74

1 e) Prevailing party fee (ORS 20.190 (1)(a)): \$85.00

2 **Total: \$156,329.64**

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

6 e. The interest of the Defendants and any successor in interest in the Subject Property is
7 foreclosed and terminated excepting only any statutory right of redemption as provided by
8 Oregon law.

9 f. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the
10 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a
11 28 U.S.C. § 2410(c) one-year redemption right in this case.

12 g. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

13 h. All right, title and interest in the Subject Property that Defendants ROBERT J. KNEALE and
14 MARY E. KNEALE had as of the date of the Deed of Trust or thereafter acquired is hereby
15 ordered to be sold by the Lane County Sheriff's Office in accordance with the process for
16 sale upon execution, and the proceeds of sale shall be applied:

- 17 1) First, to the costs of sale not incurred by Plaintiff;
18 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
19 entry of judgment through the date of the sale and any incurred costs of sale;
20 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
21 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
22 such party or parties as they may establish their right thereto.

23 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
24 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
25 the date of entry of judgment through the date of the sale and any incurred costs of sale.
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- 1 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
2 Property from and after the date of the sale and is entitled to such remedies as are available at
3 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
4 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
5 possession to the purchaser immediately upon the purchaser's demand for possession.
- 6 k. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
7 entitled to any further or other judgment, including a judgment for the deficiency.
- 8 l. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
9 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
10 terminated.
- 11 m. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
12 Deed of Trust are as follows:

13 1) Defendants with Junior Interests: As detailed herein, Defendants THE UNKNOWN
14 HEIRS AND DEVISEES OF ROBERT J. KNEALE; THE UNKNOWN HEIRS
15 AND DEVISEES OF MARY E. KNEALE; UNITED STATES OF AMERICA;
16 STATE OF OREGON and CHARLES PELROY (collectively the "Junior Interest
17 Holders") may claim some interest in Subject Property that is subsequent, subject,
18 and inferior to the interest held by Plaintiff. Plaintiff is seeking to foreclose upon a
19 senior lien and the Junior Interest Holders are named in this complaint solely by
20 virtue of said inferior interest in the Subject Property. Plaintiff is not seeking
21 monetary damages, attorney fees, costs or disbursements against Junior Interest
22 Holders that do not contest this action and have not inherited the Subject Property.

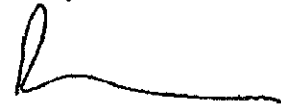
23 2) Junior Interests in the Subject Property: Specifically, the Junior Interest Holders may
24 claim the following interests in the Subject Property that are subsequent, subject, and
25 inferior to Plaintiff's interest:

26 (a) Defendant UNITED STATES OF AMERICA may claim an interest in the
27 Subject Property under the terms of an additional, subordinate note and deed
28

1 of trust, associated with this loan issued to the Secretary of Housing and
2 Urban Development (the "HUD Loan") in the amount of \$246,000.00. The
3 deed of trust associated with the HUD Loan is recorded in the official
4 records of Lane County as Instrument No. 2008-022574 on 04/22/2008.

5 (b) Defendant STATE OF OREGON has or may have a lien against the
6 Property under the State of Oregon tax deferral program recorded
7 07/08/2009 as Instrument No. 2009-039249 in the official records of Lane
8 County, Oregon.

Signed: 3/5/2018 08:51 AM



R.Curtie Conover, Circuit Court Judge

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

16 This proposed Judgment Of Foreclosure is ready for judicial signature because:

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

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

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

22 No objection has been served on me.

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

24 After conferring about objections, _____ agreed to independently file
any remaining objection.

25 The relief sought is against an opposing party who has been found in default.

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

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

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

6 Other: _____

7 Dated: 2/20/2018 and submitted by:

8 **McCarthy & Holthus, LLP**

9 s/ Andreanna C. Smith

10 John Thomas OSB No. 024691
11 X Andreanna Smith OSB No. 131336
12 920 SW 3rd Ave, 1st Floor
13 Portland, OR 97204
14 Phone: (971) 201-3200
15 Fax: (971) 201-3202
16 ansmith@mccarthyholthus.com
17 Of Attorneys for Plaintiff

Exhibit “1”

LOT 21, BRAMBLEWOOD SUBDIVISION, PHASE II, AS PLATTED AND RECORDED IN FILE 75,
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OREGON.