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

FEDERAL NATIONAL MORTGAGE
ASSOCIATION ("FANNIE MAE"), A
CORPORATION ORGANIZED AND
EXISTING UNDER THE LAWS OF THE
UNITED STATES OF AMERICA,

Plaintiff,

v.

TRACY A. OGURI AKA TRACY A.
OGURI-BENNETT AKA TRACY ANNE
OGURI; BRYAN P. OGURI; MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS,
INC; HYPERION CAPITAL GROUP, LLC;
STATE OF OREGON; COLUMBIA
COMMUNITY BANK CORPORATION
NKA PREMIER COMMUNITY BANK;
METRO AREA COLLECTION SERVICE,
INC; JERRY L. BENNETT; CAPITAL ONE
BANK (USA) NA; DISCOVER BANK;
PORTFOLIO RECOVERY ASSOCIATES,
LLC; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 17CV12058

WRIT OF EXECUTION IN
FORECLOSURE

TO THE CLACKAMAS COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on March 27, 2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Judgment Creditor:

FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A
CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE
UNITED STATES OF AMERICA
c/o Jeremy Clifford
Attorney for Plaintiff

McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$455,536.11, plus post judgment interest at the statutory rate of 9.0% per annum from March 27, 2018 to May 11, 2018 in the amount of \$5,054.58, and continuing with a per diem of \$112.32, currently totaling \$460,590.69.

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 12, 2006, the date of the Deed of Trust, and also the interest that the Defendant had thereafter, in the real property described as follows in attached Exhibit 1, APN/Parcel #01749558, and commonly known as (street address): 18212 Bluff Road, Sandy, OR 97055.

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

Dated: May 17, 2018.

Wendy Watson



Dated: 5/9/18 and submitted by:

McCarthy & Holthus, LLP

Jeremy Clifford OSB No. 142987
920 SW 3rd Ave, 1st Floor
Portland, OR 97204
Phone: (971) 201-3200
Fax: (971) 201-3202
jclifford@mccarthyholthus.com
Of Attorneys for Plaintiff

COURT CLERK HAS NOT VERIFIED FIGURES IN THIS WRIT. IF YOU HAVE ANY QUESTIONS REGARDING THIS WRIT, PLEASE CONTACT YOUR LEGAL COUNSEL, THE ISSUING ATTORNEY OR THE ISSUING COMPANY. DEBTOR MAY CONTEST THIS WRIT BY FILING A CLAIM OF EXEMPTION.

Court Administrator relies on the information provided by the person seeking issuance of this writ of execution and is not liable for any errors or omissions in the information

Exhibit 1

LOT 11, WHISMAN ESTATES, in the City of Sandy, Clackamas County, Oregon

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

FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA,

Plaintiff,

v.

TRACY A. OGURI AKA TRACY A. OGURI-BENNETT AKA TRACY ANNE OGURI; BRYAN P. OGURI; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC; HYPERION CAPITAL GROUP, LLC; STATE OF OREGON; COLUMBIA COMMUNITY BANK CORPORATION NKA PREMIER COMMUNITY BANK; METRO AREA COLLECTION SERVICE, INC; JERRY L. BENNETT; CAPITAL ONE BANK (USA) NA; DISCOVER BANK; PORTFOLIO RECOVERY ASSOCIATES, LLC; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 17CV12058

GENERAL JUDGMENT OF FORECLOSURE

1.

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

Defendants TRACY A. OGURI AKA TRACY A. OGURI-BENNETT AKA TRACY ANNE OGURI; BRYAN P. OGURI; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC; HYPERION CAPITAL GROUP, LLC; STATE OF OREGON; COLUMBIA COMMUNITY BANK CORPORATION NKA PREMIER COMMUNITY BANK; METRO AREA COLLECTION SERVICE, INC; JERRY L. BENNETT; CAPITAL ONE BANK

1 (USA) NA; DISCOVER BANK; PORTFOLIO RECOVERY ASSOCIATES, LLC;
2 OCCUPANTS OF THE PROPERTY (“Defendants”) were duly served with process and
3 failed to appear; the default has been entered against Defendants, and it appearing that
4 Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005,
5 minors, or in the military service of the United States;

6 2.

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

- 8 a. The real property to which this judgment relates is located and situated in Clackamas County,
9 Oregon, and is commonly known as 18212 Bluff Road, Sandy, OR 97055 (the “Subject
10 Property”), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
11 01749558.
- 12 b. Plaintiff is entitled to enforce the note dated April 12, 2006 and made, delivered, and
13 executed by TRACY A. OGURI and BRYAN P. OGURI to HYPERION CAPITAL
14 GROUP, LLC in the amount of \$280,800.00 (the “Note”). The Note was transferred to
15 Plaintiff by delivery of possession and by indorsement set forth on the Note.
- 16 c. A deed of trust was made, executed, and delivered by Defendants TRACY A. OGURI and
17 BRYAN P. OGURI on or about April 17, 2006 (the “Deed of Trust”). The Deed of Trust
18 was recorded on April 24, 2006 as Instrument No. 2006-036315 in the official records of
19 Clackamas County, Oregon. The Deed of Trust is a valid and perfected lien against all of the
20 Property for and securing the Amount Due. The lien of the Plaintiff is superior to any
21 interest, lien, or claim of the Defendants and shall remain in effect until issuance of a
22 Sheriff’s Deed.
- 23 d. The Borrower failed to make the payment that was due for December 1, 2010 and has not
24 cured the default. The amount of debt secured by the Deed of Trust that is now due and
25 owing is comprised of the following amounts (the “Amount Due”):

26 a) Unpaid principal balance: \$280,792.78

27 b) Prejudgment interest accruing from
28

1 11/1/2010 through 9/22/2017 and
2 continuing until the entry of
3 judgment at the current Note rate of
4 6.375%: \$123,378.73

5 c) Additional amounts due under the \$45,717.25
6 terms of the loan:

7 d) Attorney fees and costs: \$5,562.35

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

10 **Total: \$455,536.11**

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

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

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

18 g. All right, title and interest in the Subject Property that Defendants TRACY A. OGURI AKA
19 TRACY A. OGURI-BENNETT AKA TRACY ANNE OGURI and BRYAN P. OGURI had
20 as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
21 Clackamas County Sheriff's Office in accordance with the process for sale upon execution,
22 and the proceeds of sale shall be applied:

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

- 1 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
2 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
3 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 4 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
5 Property from and after the date of the sale and is entitled to such remedies as are available at
6 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
7 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
8 possession to the purchaser immediately upon the purchaser's demand for possession.
- 9 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
10 entitled to any further or other judgment, including a judgment for the deficiency.
- 11 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
12 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
13 terminated.
- 14 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
15 Deed of Trust are as follows:
- 16 1) Defendant MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC
17 PROPERTY; may claim a junior interest in Subject Property by virtue of a deed of
18 trust recorded on 02/14/2007 as Instrument No. 2007013177 in the official records of
19 Clackamas County, Oregon.
- 20 2) Defendant HYPERION CAPITAL GROUP, LLC may claim a junior interest in
21 Subject Property by virtue of a deed of trust recorded on 02/14/2007 as Instrument
22 No. 2007013177 in the official records of Clackamas County, Oregon.
- 23 3) Defendants TRACY A. OGURI AKA TRACY A. OGURI-BENNETT AKA TRACY
24 ANNE OGURI and STATE OF OREGON may claim a junior interest in Subject
25 Property by virtue of a Spousal and Child Support Judgment entered on 10/13/2009
26 as Case No. DR07050029 in the official records of Clackamas County, Oregon.
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- 1 4) Defendant COLUMBIA COMMUNITY BANK CORPORATION NKA PREMIER
2 COMMUNITY BANK may claim a junior interest in Subject Property by virtue of an
3 abstract judgment recorded on 04/15/2010 as Instrument No. 2010022760 in the
4 official records of Clatsop County, Oregon.
- 5 5) Defendant METRO AREA COLLECTION SERVICE, INC may claim a junior
6 interest in Subject Property by virtue of a judgment entered on 08/31/2012 as Case
7 No. SC123100 in the official records of Clackamas County, Oregon.
- 8 6) Defendant JERRY L. BENNETT may claim a junior interest in Subject Property by
9 virtue of a Quit Claim Deed recorded on 12/17/2012 as Instrument No. 2012-083070
10 in the official records of Clackamas County, Oregon.
- 11 7) Defendant CAPITAL ONE BANK (USA) NA may claim a junior interest in Subject
12 Property by virtue of a judgment entered on 05/01/2013 as Case No. LV13020673 in
13 the official records of Clackamas County, Oregon.
- 14 8) Defendant DISCOVER BANK may claim a junior interest in Subject Property by
15 virtue of a judgment entered on 07/11/2014 as Instrument No. LV14040238 in the
16 official records of Clackamas County, Oregon.
- 17 9) Defendant DISCOVER BANK may claim a junior interest in Subject Property by
18 virtue of a judgment entered on 10/15/2014 as Case No. LV14070022 in the official
19 records of Clackamas County, Oregon.

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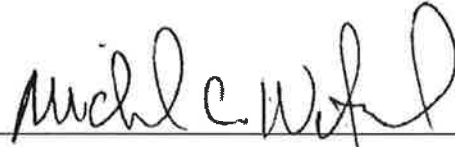
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1 10) Defendant PORTFOLIO RECOVERY ASSOCIATES, LLC may claim a junior
2 interest in Subject Property by virtue of a judgment entered on 04/17/2015 as Case
3 No. LV15020337 in the official records of Clackamas County, Oregon.
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Signed: 3/23/2018 03:54 PM

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9 **Circuit Court Judge Michael C. Wetzel**

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

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

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

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

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

19 No objection has been served on me.

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

23 After conferring about objections, _____ agreed to independently file
24 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.

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

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

4 [] Other: _____

5 Dated: September 22, 2017 and submitted by:

6 **McCarthy & Holthus, LLP**

7 s/ Jeremy Clifford

8 Jeremy Clifford OSB No. 142987

9 920 SW 3rd Ave, 1st Floor

10 Portland, OR 97204

11 Phone: (971) 201-3200

12 Fax: (971) 201-3202

13 jclifford@mccarthyholthus.com

14 Of Attorneys for Plaintiff

EXHIBIT "1"

Lot 11, WHISMAN ESTATES, in the City of Sandy, Clackamas County, Oregon.