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

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, IN TRUST FOR REGISTERED HOLDERS OF BANC OF AMERICA FUNDING CORPORATION MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-D,

Plaintiff,

v.

DAVID A. HORNSBY; ELIZABETH A. HORNSBY; E-LOAN, INC.; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; AND PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN THE COMPLAINT HEREIN,

Defendants.

Case No.: 17CV16019

WRIT OF EXECUTION IN FORECLOSURE

**TO THE POLK COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on March 15, 2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, IN TRUST FOR REGISTERED HOLDERS OF BANC OF AMERICA FUNDING CORPORATION MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-D

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

1 With the adjudicated amount due of \$403,154.20, plus post-judgment interest at the statutory rate  
2 of 9.0% per annum from March 15, 2018 to May 31, 2018 the amount of \$7,654.41, and  
3 continuing to accrue at \$99.44 *per diem*, currently totaling \$410,808.61.

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 December 30, 2005, the date of the Deed of Trust, and also the interest that the Defendant  
8 had thereafter, in the real property described in the attached *Exhibit 1* and commonly known as:  
9 6760 Zena Road, Rickreall, OR 97371.

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.



Signed: 5/25/2018 02:17 PM

*Debra M. Kupres*

19 Dated: May 21, 2018 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Bryan Kidder

22 Bryan Kidder, OSB No. 140459  
23 920 SW 3rd Ave, 1st Floor  
24 Portland, OR 97204  
25 Phone: (971) 201-3200  
26 Fax: (971) 201-3202  
27 bkidder@mccarthyholthus.com  
28 Of Attorneys for Plaintiff

## EXHIBIT 1

### PARCEL I

Beginning at a point which is 671.02 feet West and 555.72 feet South 02°49' East from the Southeast corner of the Amos Harvey Donation Land Claim No. 44 in Township 6 South, Range 4 West of the Willamette Meridian, in the County of Polk and State of Oregon; said point being on the East right of way of a 25 foot roadway easement; thence South 02°49' East along said roadway 496.94 feet to a point on the North line of a tract of land sold by contract to Vern J. Kansier; thence South 89°09' East along the North line of said Kansier Tract, 427.26 feet; thence North 00°08' West 496.00 feet; thence North 89°09' West 450.39 feet to the point of beginning.

### PARCEL II

The Easterly 1/2 of the following described property lying immediately adjacent to that property conveyed to Jerry L. Peterson and Cheryl Peterson under that Warranty Deed dated 12-1577 and recorded under BOR 117, Page 580 Deed and Mortgage Records for in the County of State of Oregon.

A strip of land 25.00 feet in width being 12.50 feet on each side of the following centerline: Beginning at a point which is 1232.62 feet South 31°29' West and 12.53 feet South 89°11' East from the Southeast corner of the Amos Harvey Donation Land Claim in Township 6 South, Range 4 West of the Willamette Meridian in the County of Polk and State of Oregon; thence North 2°49' West 1169.70 feet; thence North 34°41' West 115.37 feet; thence North 61°23' West 56.15 feet; thence South 86°54' West 96.86 feet; thence South 73°48' West 260.24 feet; thence North 81°13' West 74.85 feet; thence North 53°44' West 108.05 feet to a point in the centerline of Zena Road, Polk County Road No. 2.

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CIRCUIT COURT OF OREGON FOR POLK COUNTY

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, IN TRUST FOR REGISTERED HOLDERS OF BANC OF AMERICA FUNDING CORPORATION MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-D,

Plaintiff,

v.

DAVID A. HORNSBY; ELIZABETH A. HORNSBY; E-LOAN, INC.; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; AND PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN THE COMPLAINT HEREIN,

Defendants.

NO. 17CV16019

CORRECTED GENERAL JUDGMENT DETERMINING AMOUNT OWED AND FORECLOSURE

(Clerk's Action Required)

THIS MATTER having come on for hearing this day before the undersigned Judge of the above entitled court upon the motion of the plaintiff for judgment and foreclosure herein, the plaintiff, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, IN TRUST FOR REGISTERED HOLDERS OF BANC OF AMERICA FUNDING CORPORATION MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-D, appearing and being represented by CRAIG PETERSON, Attorney of Robinson Tait, and after considering the pleadings and affidavits on file

CORRECTED GENERAL JUDGMENT DETERMINING AMOUNT OWED AND FORECLOSURE - 1  
60128-30974-JUD-OR1861333

*In Office*  
ROBINSON TAIT, P.S.

901 Fifth Avenue, Suite 100  
Seattle, WA 98101  
42061 876-9610

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2 herein, findings of fact and conclusion of law being unnecessary under Civil Rule 69D, the court  
3 finds that the allegations contained in the plaintiff's Complaint are true, that there are no material  
4 issues of fact, that the plaintiff is entitled to judgment as a matter of law, and that the judgment  
5 should be entered in favor of the plaintiff forthwith as more particularly hereafter set forth. Therefore,  
6

7 IT IS HEREBY ORDERED AND ADJUDGED THAT:

8 1. Plaintiff, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, IN TRUST FOR  
9 REGISTERED HOLDERS OF BANC OF AMERICA FUNDING CORPORATION MORTGAGE  
10 PASS-THROUGH CERTIFICATES, SERIES 2006-D be awarded judgment in the sum of \$276,915.14,  
11 together with interest at a rate as provided in the Note from November 1, 2011 through July 17, 2017 in  
12 the amount of \$89,479.99 with additional pre-judgment interest at the per diem rate of \$30.77 as  
13 provided in the Note to the date of entry of judgment; plus reasonable attorneys' fees in the amount of  
14 \$2,600.00, plus other recoverable amounts of \$24,999.26 which includes the amounts itemized in the  
15 declaration of the lender in support of motion for judgment plus allowable costs of \$1,775.01 as itemized  
16 in the bill of disbursements and an additional amount for post-judgment sheriff's fees. Said judgment to  
17 bear interest until paid at the statutory rate or at the contract rate, whichever is greater; and  
18  
19

20 2. Plaintiff's Deed of Trust on real property in Polk County, Oregon, legally described as  
21 follows:

22 ATTACHED HERETO AS **EXHIBIT A**

23 which was recorded on January 4, 2006, under Auditor's File No. 2006-000126, records of Polk  
24 County, Oregon, be adjudged and decreed to be a first and paramount lien upon the above described  
25 real estate and the whole thereof as security for the payment of the judgment herein set forth, and that  
26 said Deed of Trust be foreclosed and the property therein described is hereby ordered sold by the  
27  
28

CORRECTED GENERAL JUDGMENT DETERMINING  
AMOUNT OWED AND FORECLOSURE - 2  
60128-30974-JUD-OR1861333

*Law Offices*  
ROBINSON TAIT, P.S.

901 Fifth Avenue, Suite 160  
Seattle, WA 98101  
(206) 670-0010

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2 Sheriff of Polk County in the manner provided for by law, and the proceeds therefrom shall be  
3 applied to the payment of the judgment, interest, attorneys' fees and costs, and such other sums as  
4 plaintiff has advanced prior to judgment, and that such sums shall constitute a first and specific lien  
5 and charge upon said real estate, prior and superior to any right, title, estate, lien or interest of the  
6 defendant and of any one claiming by, through or under them; and  
7

8 3. Any and all persons acquiring any right, title, estate, lien or interest in or to the  
9 property described above or any part thereof subsequent to December 30, 2005, the date of the Deed  
10 of Trust which is foreclosed herein, be forever barred and estopped from claiming or asserting any  
11 right, title, lien or interest in or to said property or any part thereof, save and except for the right of  
12 redemption as allowed by law; and  
13

14 4. Plaintiff be granted the right to become a bidder and purchaser at the sale and the  
15 purchaser shall be entitled to exclusive possession of the property upon completion of sale according to  
16 law, and to all right, title and interest in any rents and profits generated or arising from the property  
17 during the statutory redemption period; and plaintiff is entitled to such remedies as are available at law to  
18 secure possession, including writ of assistance, if defendants or any of them or any other party or person  
19 shall refuse to surrender possession to the purchaser immediately upon purchaser's demand for  
20 possession; and  
21

22 5. Pursuant to ORS 18.950, if any proceeds from the execution sale remain after the  
23 payment of costs under ORS 18.950(3) and satisfaction of the judgment, the court administrator shall  
24 pay the remaining proceeds as directed by the court in the order of distribution.  
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**DECLARATION DETERMINING AMOUNT OF DEBT**  
*(Not a Money Award, see ORS 18.862, 86.797, and 88.010)*

Judgment Creditor: U.S. BANK NATIONAL ASSOCIATION, AS  
TRUSTEE, IN TRUST FOR REGISTERED  
HOLDERS OF BANC OF AMERICA  
FUNDING CORPORATION MORTGAGE  
PASS-THROUGH CERTIFICATES, SERIES  
2006-D  
c/o Robinson Tait, P.S.  
901 Fifth Avenue, Suite 400  
Seattle, WA 98164  
(206) 676-9640

Attorney for Judgment Creditor: Craig Peterson  
Robinson Tait, P.S.  
901 Fifth Avenue, Suite 400  
Seattle, WA 98164  
(206) 676-9640

The name of any person or public body,  
other than the Judgment Creditor's  
Attorney, who is entitled to any  
portion of the judgment: None

Principal Balance: \$276,915.14

Simple Interest on the Principal Balance  
from November 1, 2011  
to July 17, 2017: \$89,479.99

Other Amounts Due Under Terms of Loan: \$24,999.26

Attorneys' Fees and Costs:  
Attorneys' Fee: \$2,600.00  
Total Costs: \$1,775.01

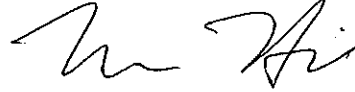
Total Attorney Fees and Costs: \$4,375.01

***TOTAL DEBT OWED*** \$395,769.40

Pre-Judgment: Additional pre-judgment interest accrues from July 18, 2017, to the date of  
entry of judgment at the per diem rate of \$30.77, in accordance with the Note

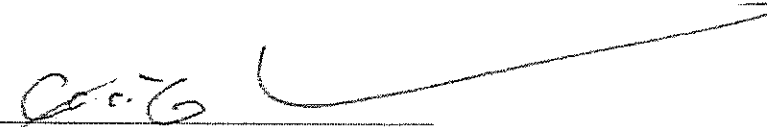
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2 Post-Judgment: Interest Accrues on the total of the amounts listed above in accordance with  
3 the contract rate in the Note, or at the statutory rate of 9% per annum, whichever is greater.  
4

5 Signed: 3/15/2018 01:38 PM

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7  
8 Circuit Court Judge Norm R. Hill

9 Submitted by:

10   
11  
12  Craig Peterson, OSB #120365  
13 Email: cpeterson@robinsontait.com  
14  Jaimie Fender, OSB #120832  
15 Email: jfender@robinsontait.com  
16  Kimberly Hood, OSB #123008  
17 Email: KHood@robinsontait.com  
18 Robinson Tait, P.S.  
19 Attorneys for Plaintiff  
20 Tel: (206) 676-9640  
21 Fax: (206) 676-9659  
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CORRECTED GENERAL JUDGMENT DETERMINING  
AMOUNT OWED AND FORECLOSURE - 5  
60128-30974-JUD-OR1861333

Law Offices  
ROBINSON TAIT, P.S.

901 Fifth Avenue, Suite 400  
Seattle WA 98161  
(206) 676-9610



EXHIBIT "A"

## LEGAL DESCRIPTION

### PARCEL I:

Beginning at a point which is 671.02 feet West and 555.72 feet South 02°49' East from the Southeast corner of the Amos Harvey Donation Land Claim No. 44 in Township 6 South, Range 4 West of the Willamette Meridian, in the County of Polk and State of Oregon; said point being on the East right of way of a 25 foot roadway easement; thence South 02°49' East along said roadway 496.94 feet to a point on the North line of a tract of land sold by contract to Vern J. Kansier; thence South 89°09' East along the North line of said Kansier Tract, 427.26 feet; thence North 00°08' West 496.00 feet; thence North 89°09' West 450.39 feet to the point of beginning.

### PARCEL II:

The Easterly 1/2 of the following described property lying immediately adjacent to that property conveyed to Jerry L. Peterson and Cheryl Peterson under that Warranty Deed dated 12-1977 and recorded under BOR 117, Page 580 Deed and Mortgage Records for in the County of State of Oregon.

A strip of land 25.00 feet in width being 12.50 feet on each side of the following centerline: Beginning at a point which is 1232.62 feet South 31°29' West and 12.53 feet South 89°11' East from the Southeast corner of the Amos Harvey Donation Land Claim in Township 6 South, Range 4 West of the Willamette Meridian in the County of Polk and State of Oregon; thence North 2°49' West 1169.70 feet; thence North 34°41' West 115.37 feet; thence North 61°23' West 56.15 feet; thence South 86°54' West 96.86 feet; thence South 73°48' West 260.24 feet; thence North 81°13' West 74.85 feet; thence North 53°44' West 108.05 feet to a point in the centerline of Zena Road, Polk County Road No. 2.


CERTIFICATE OF READINESS- UTCR 5.100

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

1.  Each opposing party affected by this order or judgment has stipulated to or approved its terms, as shown by each party's signature on the proposed order or judgment being submitted.
2.  Each opposing party affected by this order has approved the form of the document, as shown by written communication to me.
3.  I have served a copy on all parties entitled to service and:
  - No objection has been served on me within that time frame.
  - I received objections that I could not resolve with the objecting 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 [role and name of opposing party] agreed to independently file any remaining objection.
4.  The relief sought is against a party who has been found in default.
5.  An order of default is being requested with this proposed judgment.
6.  Service is not required pursuant to subsection (1)(c) of UTCR 5.100, or by statute, rule, or otherwise.
7.  This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (1)(d) of UTCR 5.100.

Date:

1-15-18

  
\_\_\_\_\_  
Attorney, OSB

120365