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

LIVE WELL FINANCIAL INC.,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES  
OF DON W. CULP; UNITED STATES OF  
AMERICA; STATE OF OREGON; MARGIE  
L. CULP; OCCUPANTS OF THE  
PROPERTY,

Defendants.

Case No.: 17CV48935

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE UMATILLA COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on March 28, 2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

LIVE WELL FINANCIAL INC.  
c/o Robert Hakari, Attorney for Plaintiff  
McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

With the adjudicated amount due of \$102,027.97, plus post judgment interest at the statutory rate of 9.0% per annum from March 28, 2018 to 4/6/18 in the amount of \$226.42, and continuing with a per diem of \$25.16, currently totaling \$102,254.39.

**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 30, 2013, the date of the Deed of Trust, and also the interest that the Defendant had

1 thereafter, in the real property described in Exhibit 1, APN/Parcel #: 144261 and commonly  
2 known as: 221 S Dupont, Echo, OR 97826.

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

8 *dated: April 10, 2018*  
9 *Johnson*  
10 *Court Clerk*



11 Submitted by:

12 **McCarthy & Holthus, LLP**

13 s/ Robert B. Hakari 4/6/18

14 \_\_\_\_\_  
15 \_ John Thomas OSB No. 024691  
16 x Robert Hakari OSB No. 114082  
17 920 SW 3rd Ave, 1st Floor  
18 Portland, OR 97204  
19 Phone: (971) 201-3200  
20 Fax: (971) 201-3202  
21 rhakari@mccarthyholthus.com  
22 Of Attorneys for Plaintiff  
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The South 45 feet of Lots 5 and 6, Block 2, HALSTEAD ADDITION to the Town, now City of Echo, Umatilla County, Oregon;

Also that portion of vacated DuPont Street and portion of vacated Kennedy Street which adjoins the above described property; said Streets were vacated by Ordinance No. 21 of the City of Echo, recorded in Book 82, Page 370, Deed Records, and being described as follows:

Beginning at the Northwest corner of Lot 5 in said Block 2; thence West along the extended North line of said Lot 5 a distance of 10 feet; thence South and parallel to the West line of said Lot 5 a distance of 110 feet; thence East, parallel to and 10 feet distant South from the South line of said Lots 5 and 6, a distance of 110 feet to a point 10 feet South of the Southeast corner of said Lot 6; thence North a distance of 10 feet to the Southeast corner of said Lot 6; thence West along the South line of Lots 5 and 6 a distance of 100 feet to the Southwest corner of said Lot 5; thence North along the West line of said Lot 5 a distance of 100 feet to the Northwest corner of said Lot 5 and the point of beginning.

Excepting the North 55 feet of the DuPont Street vacation.

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

LIVE WELL FINANCIAL INC.,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES  
OF DON W. CULP; UNITED STATES OF  
AMERICA; STATE OF OREGON;  
MARGIE L. CULP; OCCUPANTS OF THE  
PROPERTY,

Defendants.

Case No.: 17CV48935

GENERAL JUDGMENT OF  
FORECLOSURE

1.  
THIS MATTER

came before the Court on Plaintiff's motion. All Defendants were duly served with process and failed to appear; the default has been entered against Defendants, and it appearing that Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States;

2.

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 Umatilla County, Oregon, and is commonly known as 221 S Dupont, Echo, OR 97826 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 144261.
- b. Plaintiff is entitled to enforce the note dated April 30, 2013 and made, delivered, and executed by Don W. Culp ("Borrower") to Maverick Funding Corp. in the amount of \$165,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and

1 by indorsement set forth on the Note.

2 c. A deed of trust was made, executed, and delivered by Borrower on or about April 30, 2013  
3 (the "Deed of Trust"). The Deed of Trust was recorded on May 13, 2013 as Instrument No.  
4 2013-6050147 in the official records of Umatilla County, Oregon. The Deed of Trust is a  
5 valid and perfected lien against all of the Property for and securing the Amount Due. The  
6 lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall  
7 remain in effect until issuance of a Sheriff's Deed.

8 d. Under the terms of the Loan all amounts due under the Note, including principal, interest,  
9 fees and costs, are due and payable immediately upon the death of the borrower. Borrower  
10 passed away on April 14, 2017. The amount of debt secured by the Deed of Trust that is now  
11 due and owing is comprised of the following amounts (the "Amount Due"):

|    |  |                     |
|----|--|---------------------|
| 12 | a) Unpaid principal balance:                                 | \$68,457.00         |
| 13 | b) Prejudgment interest accruing<br>14 through 2/28/2018     | \$19,788.39         |
| 15 | c) Additional amounts due under the<br>16 terms of the loan: | \$8,212.33          |
| 17 | d) Attorney fees and costs:                                  | \$5,485.25          |
| 18 | e) Prevailing party fee (ORS 20.190<br>19 (1)(a)):           | \$85.00             |
| 20 | <b>Total:</b>  | <b>\$102,027.97</b> |

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

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

27 f. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the  
28 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a

1 28 U.S.C. § 2410(c) one-year redemption right in this case.

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

3 h. All right, title and interest in the Subject Property that Defendant DON W. CULP had as of  
4 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the  
5 Umatilla County Sheriff's Office in accordance with the process for sale upon execution, and  
6 the proceeds of sale shall be applied:

7 1) First, to the costs of sale not incurred by Plaintiff;

8 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of  
9 entry of judgment through the date of the sale and any incurred costs of sale;

10 3) Third, the surplus, if any, to the Defendants in the priority as their interest may  
11 appear, described *infra*, or to the clerk of the court to be distributed by the Court to  
12 such party or parties as they may establish their right thereto.

13 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
14 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
15 the date of entry of judgment through the date of the sale and any incurred costs of sale.

16 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject  
17 Property from and after the date of the sale and is entitled to such remedies as are available at  
18 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a  
19 writ of assistance if any Defendant, other party, or other person shall refuse to surrender  
20 possession to the purchaser immediately upon the purchaser's demand for possession.

21 k. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be  
22 entitled to any further or other judgment, including a judgment for the deficiency.

23 l. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,  
24 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be  
25 terminated.

26 m. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the  
27 Deed of Trust are as follows:

- 1 a. Defendant UNITED STATES OF AMERICA may claim an interest in the Subject  
2 Property under the terms of an additional, subordinate note and deed of trust, associated  
3 with this loan issued to the Secretary of Housing and Urban Development (the "HUD  
4 Loan") in the amount of \$165,000.00. The deed of trust associated with the HUD Loan is  
5 recorded in the official records of Umatilla County as Instrument No. 2013-6050148 on  
6 05/13/2013.
- 7 b. Defendant STATE OF OREGON has or may have a lien against the Property under the  
8 State of Oregon tax deferral program.

Signed: 3/28/2018 01:46 PM



CERTIFIED TO BE A TRUE AND  
CORRECT COPY OF THE ORIGINAL  
Dated April 10th, 2018  
TRIAL COURT ADMINISTRATOR  
By [Signature]  
Court clerk

  
**Christopher R. Brauer, Circuit Court Judge**

16 I hereby certify that the requirements of UTCR 5.100 have been satisfied.  
17 This proposed Judgment Of Foreclosure is ready for judicial signature because:

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

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

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

25  No objection has been served on me.

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

After conferring about objections, \_\_\_\_\_ agreed to independently file  
any remaining objection.

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

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

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

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 (4) of this rule.

Other: \_\_\_\_\_

**McCarthy & Holthus, LLP**

s/ Robert B. Hakari 3/23/18  
\_ John Thomas OSB No. 024691  
x Robert Hakari OSB No. 114082  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204  
Phone: (971) 201-3200  
Fax: (971) 201-3202  
rhakari@mccarthyholthus.com  
Of Attorneys for Plaintiff



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