

RCJD DCS00JL 24DEC'18 13:05

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

BANK OF AMERICA, N.A., its successors in
interest and/or assigns,

Plaintiff,

vs.

JON A. MARCOUX; SUSAN L. MARCOUX;
BANK OF THE CASCADES; and
OCCUPANTS OF THE PREMISES,

Defendants.

Case No.: 13CV1023FC

WRIT OF EXECUTION IN
FORECLOSURE

TO THE DESCHUTES COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on 1/28/2016. A true
copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

BANK OF AMERICA, N.A.
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 1/28/2016 in the amount of \$497,143.38, plus pre-judgment
interest at 5.875% per annum, \$63.2262 per diem, from 5/28/2015 through 1/27/2016 in the
amount of \$15,490.42, plus post-judgment interest at the statutory rate of 9.0% per annum from

1 1/28/2016 to 12/7/2018 in the amount of \$131,964.58, continuing with a per diem of \$126.40
2 currently totaling \$644,598.38.

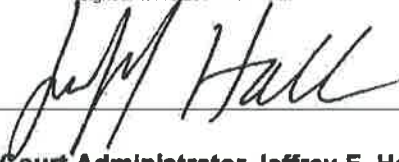
3 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
4 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
5 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
6 about January 22, 2008, the date of the Deed of Trust, and also the interest that the Defendant
7 had thereafter, in the real property described as follows:

8 *Attached as Exhibit 1*

9 and commonly known as: 17560 Cascade Estates Dr, Bend, OR 97701.

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: 12/10/2018 02:22 PM



Trial Court Administrator Jeffrey E. Hall

15
16
17
18 Dated: December 5, 2018, and submitted by:

19 **McCarthy & Holthus, LLP**

20 s/ Jeremy Clifford

21 John Thomas OSB No. 024691
22 x Jeremy Clifford OSB No. 142987
23 920 SW 3rd Ave, 1st Floor
24 Portland, OR 97204
25 Phone: (971) 201-3200
26 Fax: (971) 201-3202
27 jclifford@mccarthyholthus.com
28 Of Attorneys for Plaintiff

Exhibit 1

THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 15 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON;

EXCEPTING THEREFROM A PARCEL OF LAND, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD AT THE NORTHWEST CORNER OF PARCEL 1, PARTITION PLAT NO. 2005-24, SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 30; THENCE S 00° 03' 02" E, ON THE WEST BOUNDARY OF SAID PARCEL 1, 576.22 FEET TO A POINT; THENCE LEAVING SAID WEST BOUNDARY, S 89° 56' 58" W, 10.93 FEET TO A 5/8" IRON ROD; THENCE N 00° 03' 02" W, 576.22 FEET TO A 5/8" IRON ROD ON THE NORTH LINE OF SAID WEST HALF; THENCE ON SAID NORTH LINE, N 89° 59' 37" E, 10.93 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A PORTION OF SAID PARCEL 1, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD AT THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE ON THE WEST BOUNDARY OF SAID PARCEL, N 00° 03' 02" W, 720.44 FEET TO A POINT; THENCE LEAVING SAID BOUNDARY, N 89° 56' 58" E, 10.00 FEET TO A 5/8" IRON ROD; THENCE S 00° 09' 02" W, 427.46 FEET TO A 5/8" IRON ROD; THENCE S 00° 08' 42" W, 293.00 FEET TO A 5/8" IRON ROD ON THE SOUTH LINE OF SAID PARCEL 1; THENCE ON SAID SOUTH LINE, N 89° 57' 53" W, 7.50 FEET TO THE POINT OF BEGINNING.

SUBJECT TO AND TOGETHER WITH EASEMENTS OF RECORD.

CONTAINING 9.84 ACRES, MORE OR LESS.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

BANK OF AMERICA, N.A., its successors in
interest and/or assigns,

Plaintiff,

vs.

JON A. MARCOUX; SUSAN L.
MARCOUX; BANK OF THE CASCADES;
and OCCUPANTS OF THE PREMISES.

Defendants.

CASE NUMBER: 13CV1023FC

**GENERAL JUDGMENT OF
FORECLOSURE AGAINST:**

- (1) JON A. MARCOUX**
- (2) SUSAN L. MARCOUX**
- (3) BANK OF THE CASCADES**

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, BANK OF AMERICA, N.A., its successors in interest and/or assigns (“Plaintiff”), filed its Complaint for Foreclosure of Deed of Trust; that Defendants JON A. MARCOUX, SUSAN L. MARCOUX and BANK OF THE CASCADES (collectively referred to as “Defendants”) were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, and that ORDERS OF DEFAULT (1) BANK OF THE CASCADES has been entered against them on Plaintiff’s Complaint. Defendants JON A. MARCOUX and SUSAN L. MARCOUX filed an “Answer” on or about August 30, 2013. Plaintiff’s Motion for Summary Judgment was filed on October 22, 2015 and was granted in its entirety on January 7, 2016. A true and correct copy of the Order Granting Plaintiff’s Motion for Summary Judgment is attached hereto as Exhibit “1.” Plaintiff is now entitled to entry of a General Judgment foreclosing Plaintiff’s deed of trust against the property commonly known as 17560 CASCADE ESTATES DR,

1 BEND, OR 97701 ("Property") and extinguishing any and all interest of the Defendants in the
2 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 22, 2008, in the
8 amount of \$417,000.00, and executed by Defendants JON A. MARCOUX and SUSAN L.
9 MARCOUX.

10 4.

11 The Note is secured by that certain deed of trust ("Deed of Trust") executed on or about
12 January 26, 2008, by Defendants JON A. MARCOUX and SUSAN L. MARCOUX. The Deed of
13 Trust was recorded on January 13, 2012 under the recording number 2012-000984 of the Official
14 Records of Deschutes County, Oregon, against the Property, which is legally described in Exhibit
15 "2" ("Property") and constitutes a valid lien against the Property.

16 5.

17 Defendants JON A. MARCOUX and SUSAN L. MARCOUX failed to comply with the
18 terms of the Note and Deed of Trust by failing to make the payments required by the terms of the
19 Note and Deed of Trust. Pursuant to the terms of the Note and Deed of Trust, Plaintiff declared all
20 sums due and owing under the Note and Deed of Trust immediately due and payable.

21 6.

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

26 7.

27 A judgment of foreclosure in the amount of \$497,143.38 shall be granted in favor of Plaintiff,
28 and its successors and/or assigns, as further described below ("Amount Owed").

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8.

The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the satisfaction of Plaintiff's Judgment 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 attorneys' 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 Judgment and paid from the proceeds from the sale of the Property.

11.

Defendants JON A. MARCOUX and SUSAN L. MARCOUX, and all parties claiming through or under 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 JON A. MARCOUX and SUSAN L. MARCOUX are not entitled to a homestead exemption on account of their interest 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 Judgment, plus interest from the date of this Judgment until sale, without advancing any cash except money required for the Sheriff's 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

1 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
2 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
3 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

4 15.

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

8 16.

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

11 17.

12 This suit does not constitute an attempt to collect the debt against Defendants JON A.
13 MARCOUX, SUSAN L. MARCOUX and BANK OF THE CASCADES. Rather, it is a suit to
14 execute upon the Property as security for the Judgment.

15 **DECLARATION OF AMOUNT OWED**

16 **1. Judgment Creditor:**

BANK OF AMERICA, N.A., its successors in
17 interest and/or assigns

18 Address:

MALCOLM ♦ CISNEROS, A Law Corporation
19 2112 Business Center Drive, 2nd Floor
20 Irvine, California 92612

21 **Judgment Attorney:**

Nathan F. Smith

22 Address:

MALCOLM ♦ CISNEROS, A Law Corporation
23 2112 Business Center Drive, 2nd Floor
24 Irvine, California 92612

25 Telephone Number:

(949) 252-9400

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Judgment Debtor: JON A. MARCOUX
Address: PO Box 12829, Salem, OR 97309
Year of Birth: Unknown
Final 4 digits of Social Security number: XXX-XX-9372
Driver's license number and issuing state: Unknown
Judgment Debtor Attorney: Rex K. Daines
OlsenDaines PC
PO Box 12829
Salem, OR 97309

Judgment Debtor: SUSAN L. MARCOUX
Address: PO Box 12829, Salem, OR 97309
Year of Birth: Unknown
Final 4 digits of Social Security number: XXX-XX-8499
Driver's license number and issuing state: Unknown
Judgment Debtor Attorney: Rex K. Daines
OlsenDaines PC
PO Box 12829
Salem, OR 97309

3. Persons or Public Bodies Entitled to a Portion the Judgment: N/A

4. Judgment Amount: \$494,120.88

5. Pre-Judgment Interest: Simple interest to accrue on \$393,885.85 from May 28, 2015 to the date the Judgment is entered into the Court's register at 5.875% per annum, \$63.2262 per diem.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. Post-Judgment Interest:

Simple interest to accrue on \$497,143.38 plus Pre-Judgment Interest from the day after the 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.

7. Periodic accrual:

N/A

8. Attorney's Fees and Costs:

An award of \$3,022.50 in attorney's fees and costs is made for Judgment of Foreclosure

Attorney's Fees:

\$2,887.50

Process Service Cost:

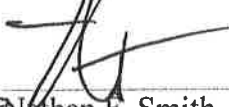
\$135.00

Signed: 1/28/2016 01:47 PM



Circuit Court Judge Wells B. Ashby

Submitted by:



Dated:

1/22/16

- Nathan F. Smith, OSB #120112
 - Richard J. Bayless, OSB #101826
- Attorneys for Plaintiff
MALCOLM ♦ CISNEROS, ALC
2112 Business Center Drive
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org
Rbayless@mclaw.org

EXHIBIT 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

BANK OF AMERICA, N.A., its successors in
interest and/or assigns,

Plaintiff,

vs.

JON A. MARCOUX; SUSAN L. MARCOUX;
BANK OF THE CASCADES; and
OCCUPANTS OF THE PREMISES.

Defendants.

CASE NUMBER: 13CV1023FC

**ORDER GRANTING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

Based upon the examination and consideration of Plaintiff's Motion for Summary Judgment pursuant to ORCP 47, Plaintiff's Request for Judicial Notice, the Declarations of Anita Michelle

1 Williams and Nathan F. Smith, and all papers, records, and files in the above-entitled and numbered
2 case, and finding that the Motion for Summary Judgment was duly and properly served;

3 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Plaintiff's Motion for
4 Summary Judgment is granted. Plaintiff shall file a proposed General Judgment of Foreclosure.
Signed: 1/6/2016 01:30 PM

5
6 DATED: _____



CIRCUIT COURT JUDGE
Circuit Court Judge Stephen P. Forte

7
8
9
10 Presented by: _____

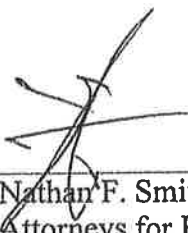

Nathan F. Smith, OSB #120112
Attorneys for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

EXHIBIT 2

LEGAL DESCRIPTION

Parcel A, LL-05-30

The West Half of the East half of the Northeast Quarter of the Southeast Quarter of Section 30, Township 15 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon;

Excepting therefrom a parcel of land, being more particularly described as follows:

Beginning at a 5/8" iron rod at the northwest corner of Parcel 1, Partition Plat No. 2005-24, situated in the Northeast Quarter of the Southeast Quarter of said Section 30; thence S00°03'02"E, on the west boundary of said Parcel 1, 576.22 feet to a point; thence leaving said west boundary, S89°56'58"W, 10.93 feet to a 5/8" iron rod; thence N00°03'02"W, 576.22 feet to a 5/8" iron rod on the north line of said West Half; thence on said north line, N89°59'37"E, 10.93 feet to the point of beginning.

Together with a portion of said Parcel 1, being more particularly described as follows:

Beginning at a 5/8" iron rod at the southwest corner of said Parcel 1; thence on the west boundary of said Parcel 1, N00°03'02"W, 720.44 feet to a point; thence leaving said boundary, N89°56'58"E, 10.00 feet to a 5/8" iron rod; thence S00°09'02"W, 427.46 feet to a 5/8" iron rod; thence S00°08'42"W, 293.00 feet to a 5/8" iron rod on the south line of said Parcel 1; thence on said south line, N89°57'53"W, 7.50 feet to the point of beginning.

Subject to and together with easements of record.

Containing 9.84 Acres, more or less.