

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

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

MORTGAGE ASSET MANAGEMENT LLC,

Plaintiff,

v.

THE ESTATE OF VIRGINIA L. POPPINO;
THE UNKNOWN HEIRS, DEVISEES AND
ASSIGNEES OF VIRGINIA L. POPPINO;
GENE C. POPPINO JR.; SECRETARY OF
HOUSING AND URBAN DEVELOPMENT;
and ALL OTHER PERSONS OR PARTIES
UNKNOWN CLAIMING ANY RIGHT,
TITLE, LIEN, OR INTEREST IN THE REAL
PROPERTY COMMONLY KNOWN AS
1373 NORTH COTTAGE AVENUE,
GEARHART, OR 97138,

Defendants.

Case No. 18CV19247

**GENERAL JUDGMENT OF
FORECLOSURE AND DECLARATION OF
AMOUNT DUE BY DEFAULT**

ORCP Rule 69

PURSUANT TO SB368, THIS IS A
JUDGMENT OF FORECLOSURE AND DOES
NOT CONSTITUTE A MONEY AWARD
AGAINST ANY DEFENDANT

Based upon the Court’s Order of Default against Defendants THE ESTATE OF VIRGINIA L. POPPINO; THE UNKNOWN HEIRS, DEVISEES AND ASSIGNEES OF VIRGINIA L. POPPINO; GENE C. POPPINO JR.; SECRETARY OF HOUSING AND URBAN DEVELOPMENT; and ALL OTHER PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 1373 NORTH COTTAGE AVENUE, GEARHART, OR 97138, the records on file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by Default by Plaintiff MORTGAGE ASSET MANAGEMENT LLC (“Plaintiff”),

IT IS HEREBY ADJUDGED:

1. Plaintiff’s security interest in the real property located at 1373 NORTH

1 COTTAGE AVENUE, GEARHART, OR 97138 (“Subject Property”), as evidenced by the Deed
2 of Trust recorded April 21, 2009 in the official records of CLATSOP County as Instrument
3 Number 2009-03646 (“Deed of Trust”), is a viable first priority lien, superior to the interests of
4 all the Defendants. All rights, claims, ownerships, liens, titles and demands of all Defendants are
5 subsequent to Plaintiff’s lien as created by the Note and Deed of Trust. The Subject Property is
6 legally described as follows:

7 *See Attached, Exhibit 2;*

8 2. The Deed of Trust is foreclosed and upon entry of this Judgment the court
9 administrator shall upon request of Plaintiff issue a writ of execution for the sale, by the Sheriff,
10 in the manner provided by law;

11 3. Plaintiff has submitted a Declaration of Amount Due and is owed the total amount
12 due under the Note and Deed of Trust and any future advances and/or fees that may be made or
13 incurred pursuant to the terms of the Note and Deed of Trust up to the date of the execution sale.
14 This amount is to be satisfied by sale of the Subject Property as directed under this Judgment;

15 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an
16 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule
17 68(C), which amount may be added to the outstanding obligation due and owing under the Note
18 and Deed of Trust and recovered from the proceeds of the sheriff’s sale. Pursuant to the Deed of
19 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied
20 by sale of the Subject Property as directed under this Judgment;

21 5. Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule
22 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing
23 under the Note and Deed of Trust and recovered from the proceeds of the sheriff’s sale. Pursuant
24 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This
25 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

26 6. Plaintiff is owed the prevailing party fee of \$300.00, this amount to be satisfied by

1 sale of the Subject Property as directed under this Judgment.

2 7. The Sheriff shall make a return on the writ of execution to the court administrator
3 along with the proceeds of the sale, if any. The proceeds of the sale, if any, shall be applied first
4 toward the costs of the sale; then toward the satisfaction of Plaintiff's Judgment of Foreclosure
5 awarded herein; and the surplus, if any, to the clerk of the court to be distributed to such party or
6 parties as may establish their right thereto. The Defendants and all persons claiming through or
7 under Defendants, whether lien claimants, judgment creditors, claimants arising under junior
8 mortgages or deeds of trust, purchasers, encumbrances or otherwise, shall be barred and
9 foreclosed from all rights, claims, interest or equity of redemption in the Subject Property and
10 every part of the Subject Property when the time for redemption has elapsed;

11 8. Plaintiff or any other party to this action may become a purchaser at the
12 foreclosure sale, and such purchaser shall be immediately let into possession of the subject
13 property, until redemption of the property, if any. The purchaser at the foreclosure sale or any
14 successor in interest may apply to this Court for a writ of assistance to gain possession of the
15 subject property if Defendants or any other party or person refuses to surrender possession;

16 /././

17 /././

18 /././

19 /././

20 /././

21 /././

22 /././

23 /././

24 /././

25 /././

26 /././

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

DECLARATION OF AMOUNT DUE BY DEFAULT

(PURSUANT TO SB 368, THIS IS A JUDGMENT OF FORECLOSURE AND DOES NOT CONSTITUTE A MONEY AWARD AGAINST ANY DEFENDANT)

1. The total amount of the unpaid principal balance, interest, and other amounts owed is \$331,452.21.
2. Simple interest at the variable rate currently at 2.9510% (\$25.52 *per diem*) after October 11, 2018, through the date of judgment.
3. Attorney fees of \$2,590.00, plus \$260.00, through the date of sale.
4. Costs of \$5,169.82, plus costs accrued through the date of sale.
5. Prevailing party fee: \$300.00.
6. Post-judgment interest thereafter on the total amounts, Numbers 1 – 5, above, at the contract rate of interest or 9.000% per annum, whichever is greater, through the date of sale.

IT IS SO ADJUDGED

Signed: 10/15/2018 02:51 PM

Paula Brownhill

Circuit Court Judge Paula Brownhill

CERTIFICATE OF READINESS

This proposed Order or Judgment is ready for judicial signature because:

1. Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
2. Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.
3. I have served a copy of this order or judgment on all parties entitled to service and:

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

- a. No objection has been served on me;
 - b. I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
 - c. After conferring about objections, [**role and name of objecting party**] agreed to independently file any remaining objection.
4. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
5. 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 (5) of this rule.
6. Other: _____

Presented By:
ALDRIDGE PITE, LLP

/s/ Sarah M. Mathenia
Sarah M. Mathenia, OSB #120681
(858) 750-7600
(503) 222-2260 (Facsimile)
smathenia@aldridgepite.com
111 SW Columbia Street, Suite 950
Portland, OR 97201
Of Attorneys for Plaintiff

Date: October 12, 2018

THAT PORTION OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 10 WEST, WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE EAST LINE OF COTTAGE AVENUE IN GEARHART, OREGON, SAID POINT BEING 802 FEET SOUTH OF THE CENTER LINE OF THE NEW EAST AND WEST ROAD AS NOW TRAVELLED ACROSS THE GEARHART DONATION LAND CLAIM;
THENCE EAST AND PARALLEL TO SAID EAST AND WEST ROAD A DISTANCE OF 100 FEET;
THENCE NORTHERLY AND PARALLEL TO COTTAGE AVENUE A DISTANCE OF 75 FEET;
THENCE WEST 100 FEET TO THE EAST LINE OF COTTAGE AVENUE;
THENCE SOUTHERLY ALONG THE EAST LINE OF COTTAGE AVENUE A DISTANCE OF 75 FEET TO THE POINT OF BEGINNING, ALL BEING SITUATE IN SECTION 3, TOWNSHIP 6 NORTH, RANGE 10 WEST, WILLAMETTE MERIDIAN, IN CLATSOP COUNTY, OREGON.