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

WELLS FARGO BANK, NATIONAL
ASSOCIATION AS TRUSTEE FOR ABFC
2006-OPT2 TRUST, ASSET BACKED
FUNDING CORPORATION ASSET
BACKED CERTIFICATES, SERIES 2006-
OPT2,

Plaintiff,

vs.

JENNIFER E. WHEELER; AKA JENNIFER
ELLEN WHEELER FKA JENNIFER ELLEN
SCHRAM; JOE L. WHEELER; AKA JOSEPH
LEE WHEELER; OPTION ONE
MORTGAGE CORPORATION; CARTER
JONES COLLECTION SERVICE, INC.,
STATE OF OREGON;, OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 17CV47667

WRIT OF EXECUTION IN
FORECLOSURE

TO THE KLAMATH COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on September 11, 2018.
A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the
Plaintiff:

1 WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR ABFC
2 2006-OPT2 TRUST, ASSET BACKED FUNDING CORPORATION ASSET BACKED
3 CERTIFICATES, SERIES 2006-OPT2

4 c/o Jeremy Clifford
5 Attorney for Plaintiff

6 McCarthy & Holthus, LLP
7 920 SW 3rd Ave, 1st Floor
8 Portland, OR 97204

9 With the adjudicated amount due of \$196,199.08, plus pre- judgment interest Note rate of 8.7%,
10 per diem \$23.503355, from 8/3/2018 to 9/11/2018 in the amount of \$916.63, plus post judgment
11 interest at the statutory rate of 9.0% from 9/12/2018 to 1/9/2018 in the amount of \$5,783.40, and
12 continuing with a per diem of \$48.60, currently totaling \$202,899.11.

13 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
14 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
15 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
16 about August 2, 2006, the date of the Deed of Trust, and also the interest that the Defendant had
17 thereafter, in the real property described as follows:

18 SEE ATTACHED EXHIBIT 1

19 and commonly known as: 8905 Shady Pine Road, Klamath Falls, OR 97601.

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

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11/7/19 John M Powell, TCA
Amy Hammon, clerk


1 Dated: 1/4/2019 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ Brady Godbout

4 John Thomas OSB No. 024691

5 Andreanna Smith OSB No. 131336

6 Brady Godbout OSB No. 132708

7 Cruz Turcott OSB No. 165531

8 Jeremy Clifford OSB No. 142987

9 Michael Scott OSB No. 973947

10 920 SW 3rd Ave, 1st Floor

11 Portland, OR 97204

12 Phone: (971) 201-3200

13 Fax: (971) 201-3202

14 bgodbout@mccarthyholthus.com

15 Of Attorneys for Plaintiff

EXHIBIT "1"

Legal Description:

A TRACT OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH 40 LINE WHICH LIES SOUTH 89° 49' EAST A DISTANCE OF 432.2 FEET FROM THE IRON PIN WHICH MARKS THE NORTHWEST CORNER OF LOT 3, SECTION 31, TOWNSHIP 37 S.R. 9 EAST OF THE WILLAMETTE MERIDIAN AND WHICH POINT OF BEGINNING IS ALSO ON THE EASTERLY RIGHT OF WAY LINE OF THE STATE HIGHWAY AND RUNNING THENCE SOUTH 19°36' WEST A DISTANCE OF 17.6 FEET TO AN IRON PIN WHICH IS THE POINT OF TANGENCY OF A 10° CURVE OF THE STATE HIGHWAY AND 30 FEET EASTERLY FROM THE CENTERLINE; THENCE SOUTHWESTERLY FOLLOWING THE ARC OF A 9°30' CURVE TO THE RIGHT A DISTANCE OF 53 FEET TO AN IRON PIN WHICH IS ON THE EASTERLY RIGHT OF WAY LINE OF THE STATE HIGHWAY; THENCE SOUTH 65°22' EAST ALONG A RADIAL LINE OF SAID 9°30' EAST A DISTANCE OF 195.6 FEET TO AN IRON PIN; THENCE NORTH 26° 39' EAST A DISTANCE OF 163.9 FEET TO AN IRON PIN WHICH IS ON THE NORTH 40 LINE OF SAID LOT 3; THENCE NORTH 89°49' WEST A DISTANCE OF 225.5 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, THIS SAID TRACT, IN LOT 3, SECTION 31. TOWNSHIP 37 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.

ALSO, COMMENCING AT THE IRON PIN WHICH MARKS THE NORTHWEST CORNER OF LOT 3, SECTION 31 TOWNSHIP 37 S.R. EAST OF THE WILLAMETTE MERIDIAN, AND RUNNING THENCE SOUTH 89°49' EAST ALONG THE NORTH 40 LINE A DISTANCE OF 432.2 FEET; THENCE SOUTH 19°36' WEST A DISTANCE OF 17.6 FEET TO AN IRON PIN WHICH IS THE POINT OF TANGENCY OF A 10° CURVE OF THE STATE HIGHWAY' THENCE; SOUTHWESTERLY FOLLOWING THE ARC OF A 9°30' CURVE TO THE RIGHT A DISTANCE OF 53 FEET TO AN IRON PIN WHICH IS THE TRUE POINT OF BEGINNING, AND RUNNING THENCE; CONTINUING IN A SOUTHWESTERLY DIRECTION ALONG THE ARC OF A 9°30' CURVE TO THE RIGHT A DISTANCE OF 70.6 FEET TO AN IRON PIN WHICH IS ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF THE STATE HIGHWAY; THENCE SOUTH 63°21' EAST A DISTANCE OF 197 FEET TO AN IRON PIN; THENCE NORTH 26°39' EAST A DISTANCE OF 77.6 FEET TO AN IRON PIN; THENCE NORTH 65°22' WEST ALONG A RADIAL LINE TO THE ABOVE MENTIONED 9°30' CURVE A DISTANCE OF 195.6 FEET, MORE OR LESS, TO THE POINT BEGINNING, IN LOT 3 SECTION 31 TOWNSHIP 37 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON

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

WELLS FARGO BANK, NATIONAL
ASSOCIATION AS TRUSTEE FOR
ABFC 2006-OPT2 TRUST, ASSET
BACKED FUNDING CORPORATION
ASSET BACKED CERTIFICATES,
SERIES 2006-OPT2,

Plaintiff,

vs.

JENNIFER E. WHEELER AKA
JENNIFER ELLEN WHEELER FKA
JENNIFER ELLEN SCHRAM; JOE L.
WHEELER AKA JOE E. WHEELER AKA
JOSEPH LEE WHEELER; OPTION ONE
MORTGAGE CORPORATION; CARTER
JONES COLLECTION SERVICE, INC.;
STATE OF OREGON; OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 17CV47667

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

Defendants JENNIFER E. WHEELER AKA JENNIFER ELLEN WHEELER FKA
JENNIFER ELLEN SCHRAM; JOE L. WHEELER AKA JOE E. WHEELER AKA
JOSEPH LEE WHEELER; OPTION ONE MORTGAGE CORPORATION; CARTER
JONES COLLECTION SERVICE, INC.; STATE OF OREGON; OCCUPANTS OF THE
PROPERTY ("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;

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 Klamath County, Oregon, and is commonly known as 8905 Shady Pine Road, Klamath Falls, OR 97601 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R380055.
- b. Plaintiff is entitled to enforce the note dated August 1, 2006 and made, delivered, and executed by JENNIFER E. WHEELER and JOE L. WHEELER to EAGLE HOME MORTGAGE, INC. in the amount of \$102,400.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.
- c. A deed of trust was made, executed, and delivered by Defendants JENNIFER E. WHEELER and JOE L. WHEELER on or about August 2, 2006 (the "Deed of Trust"). The Deed of Trust was recorded on August 3, 2006 as Instrument No. 2006-015679 in the official records of Klamath County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- d. The Borrower failed to make the payment that was due for May 1, 2012 and has not cured the default. The amount of debt secured by the Deed of Trust that is now due and owing is comprised of the following amounts (the "Amount Due"):

- | | |
|--|-------------|
| a) Unpaid principal balance: | \$97,255.26 |
| b) Prejudgment interest accruing from 4/1/2012 through 8/2/2018 and continuing until the entry of judgment at the current Note rate of 8.7%: | \$53,634.61 |
| c) Additional amounts due under the terms of the loan: | \$40,632.39 |
| d) Attorney fees and costs: | \$4,591.82 |

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

2 **Total: \$196,199.08**

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

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

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

10 g. All right, title and interest in the Subject Property that Defendants JENNIFER E. WHEELER
11 and JOE L. WHEELER had as of the date of the Deed of Trust or thereafter acquired is
12 hereby ordered to be sold by the Klamath County Sheriff's Office in accordance with the
13 process for sale upon execution, and the proceeds of sale shall be applied:

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

20 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
21 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
22 the date of entry of judgment through the date of the sale and any incurred costs of sale.

23 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
24 Property from and after the date of the sale and is entitled to such remedies as are available at
25 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
26

1 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
2 possession to the purchaser immediately upon the purchaser's demand for possession.

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

5 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
6 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
7 terminated.

8 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
9 Deed of Trust are as follows:

10 1) Defendant OPTION ONE MORTGAGE CORPORATION may claim a junior
11 interest in Subject Property by virtue of a deed of trust recorded 08/03/2006 as
12 Instrument No. 2006-015680 in the official records of Klamath County, Oregon.

13 2) Defendant CARTER JONES COLLECTION SERVICE, INC. may claim an interest
14 in Subject Property by virtue of a judgment entered on 06/03/2010 in the Circuit
15 Court of Klamath County, Case No. 1001657CV.

16 3) STATE OF OREGON acting through the department of Employment, may also claim
17 a junior interest in Subject Property by virtue of a Tax Lien recorded on 03/04/2014
18 as Instrument No. 2014-001834 in the official records of Klamath County, Oregon.

Signed: 9/11/2018 03:05 PM



Circuit Court Judge Cameron F. Wogan

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

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

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

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

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

8 No objection has been served on me.

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

10 After conferring about objections, _____ agreed to independently file
11 any remaining objection.

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

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

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

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

17 Other: _____

18 Dated: August 2, 2018 and submitted by:

19 **McCarthy & Holthus, LLP**

20 s/ Jeremy Clifford

21 Jeremy Clifford OSB No. 142987

22 920 SW 3rd Ave, 1st Floor

23 Portland, OR 97204

24 Phone: (971) 201-3200

25 Fax: (971) 201-3202

26 jclifford@mccarthyholthus.com

27 Of Attorneys for Plaintiff

Exhibit 1

Legal Description:

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