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JACKSON COUNTY
SHERIFF'S OFFICE

IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF JACKSON

BANK OF AMERICA, N.A.

Case No. 18CV07767

Plaintiff,

WRIT OF EXECUTION

vs.

DAN WHITWORTH; CHRISTINA
WHITWORTH; PARTIES IN
POSSESSION

Defendants.

TO: JACKSON COUNTY SHERIFF

WHEREAS, on November 8, 2018, in the above-entitled court, a General Judgment of Foreclosure and Sale, with said Judgment containing therein a Declaration of Amount Due and was duly entered and docketed in the above-entitled cause

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 upon execution (subject to redemption) all of the interest which the defendants had on February 18, 2011, the date of the deed of trust, and also all of the interest which the defendants acquired thereafter, in the real property described in the judgment:

1- WRIT OF EXECUTION
S&S No. 17-122021

SHAPIRO & SUTHERLAND, LLC
1499 SE Tech Center Place, Suite 255, Vancouver, WA 98683
Telephone (360)260-2253 (800)970-5647
Fax (360)260-2285
ksutherland@logs.com

1 PARCEL NO. 1 OF PARTITION PLAT RECORDED JUNE 16, 1999, AS PARTITION
2 PLATNO. P-30-1999 OF "RECORD OF PARTITION PLATS" IN JACKSON COUNTY,
3 OREGON, AND FILED AS SURVEY NO. 16176 IN THE OFFICE OF THE COUNTY
4 SURVEYOR. YEAR: 2006, MAKE: KARSTEN, MODEL NUMBER: 48401, SERIAL
5 NUMBER: STA027611ORAB, HUD CERTIFICATION NUMBER(S): ORE484076 &
6 ORE484077, SIZE: 27 X 48, "WHICH, BY INTENTION OF THE PARTIES SHALL
7 CONSTITUTE A PART OF THE REALTY AND SHALL PASS WITH IT"

8 and commonly known as 385 Flower Street, Shady Cove, OR 97539 to satisfy the sum of
9 \$189,214.00, as of December 15, 2018, together with additional post judgment interest of 9.00%
10 from that date (\$46.23 per day), and costs of this execution, making due return within 60 days after
11 you receive this writ.

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25 2- WRIT OF EXECUTION
26 S&S No. 17-122021

27 *SHAPIRO & SUTHERLAND, LLC*
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1 BANK OF AMERICA, N.A. is the Judgment Creditor, and its address for purpose of this
2 writ only is: C/O Shapiro & Sutherland, LLC, 1499 SE Tech Center Place, Suite 255,
3 Vancouver, WA 98683 (360)260-2253. Shapiro & Sutherland, LLC is the attorney for the
4 Judgment Creditor.
5
6
7
8



Signed: 12/18/2018 01:50 PM

Andrea Culbertson

Andrea Culbertson - Court Clerk

9
10
11
12 Submitted by:
13 Attorneys for Plaintiff,
SHAPIRO & SUTHERLAND, LLC

14 By: _____

James A. Craft #090146 [jcraft@logs.com]
16 Kelly D. Sutherland #87357 [ksutherland@logs.com]
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18 Holger Uhl #950143 [huhl@logs.com]*
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25 3- WRIT OF EXECUTION
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IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF JACKSON

BANK OF AMERICA, N.A.,
Plaintiff,

Case No. 18CV07767

GENERAL JUDGMENT OF
FORECLOSURE AND SALE

vs.

DAN WHITWORTH; CHRISTINA
WHITWORTH; PARTIES IN POSSESSION,
Defendants.

Default having been entered against Defendant(s), Dan Whitworth, Christina Whitworth
and Parties in Possession:

It is hereby

ORDERED AND ADJUDGED:

1. The real property to which this judgment relates (hereafter the "Property") is situated in
Jackson County, Oregon is commonly known as 385 Flower Street, Shady Cove, OR 97539
and is legally described as follows:

PARCEL NO. 1 OF PARTITION PLAT RECORDED JUNE 16, 1999, AS
PARTITION PLATNO. P-30-1999 OF "RECORD OF PARTITION PLATS" IN

1 - GENERAL JUDGMENT OF FORECLOSURE AND
SALE
S&S No. 17-122021

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1 JACKSON COUNTY, OREGON, AND FILED AS SURVEY NO. 16176 IN THE
2 OFFICE OF THE COUNTY SURVEYOR. YEAR: 2006, MAKE: KARSTEN,
3 MODEL NUMBER: 48401, SERIAL NUMBER: STA027611ORAB, HUD
4 CERTIFICATION NUMBER(S): ORE484076 & ORE484077, SIZE: 27 X 48,
"WHICH, BY INTENTION OF THE PARTIES SHALL CONSTITUTE A PART OF
THE REALTY AND SHALL PASS WITH IT"

- 5 2. The Deed of Trust executed and delivered by Defendant, Dan Whitworth, and Christina
6 Whitworth, as tenants by the entirety ("Borrower") on or about February 18, 2011 and
7 recorded on February 28, 2011 as Instrument No. 2011-006471 in the official records of
8 Jackson County, Oregon, is a valid and perfected lien against all of the Property for the
9 amount of Plaintiff's judgment as provided herein.
- 10
- 11 3. The Plaintiff is the holder of the original note dated February 18, 2011 and made by Dan
12 Whitworth and Christina Whitworth in the amount of \$172,958.00. A copy of the Note was
13 attached to the complaint as Exhibit. Plaintiff is the holder of the Note and the beneficial
14 interest in the Deed of Trust (together the "Loan").
- 15
- 16 4. The interest of each of the Defendant(s) subject to this Judgment and any successor in
17 interest in the Property is foreclosed and terminated excepting only any statutory right of
18 redemption as provided by Oregon law.
- 19
- 20 5. The lien of the Plaintiff is superior to any interest, lien, or claim of the remaining
21 Defendants and shall remain in effect until issuance of a Sheriff's Deed. Upon Motion to
22 the Court and good cause shown, Plaintiff may move to rescind the foreclosure judgment
23 and to reinstate the Loan prior to the Sheriff's sale, returning the parties to their prejudgment
24 interests and priorities.
- 25 6. The Defendant(s) are not entitled to a homestead exception as against Plaintiff's judgment.

26 2 - GENERAL JUDGMENT OF FORECLOSURE AND
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- 1 7. All of the rights, title and interest that Borrower(s) had as of the date of the Deed of Trust or
 2 thereafter acquired in the subject Property, is hereby ordered to be sold by the Jackson
 3 County Sheriff's Office in accordance with the process for sale upon execution, and the
 4 proceeds of sale shall be applied; first to the costs of sale; second to satisfaction of the
 5 amounts awarded Plaintiff herein; with the surplus, if any, to the Defendants in the priority
 6 as their interest may appear or to the clerk of the court to be distributed to such party of
 7 parties as may establish their right thereto.
 8
 9 8. Plaintiff or any junior lienholders may become purchaser at the sale of the Property.
 10 9. The purchaser at the sale is entitled to exclusive and immediate possession of the Property
 11 from and after the date of the sale and is entitled to such remedies as are available at law or
 12 in equity to secure possession.
 13
 14 10. The purchaser at the sale may apply to the Court for a writ of assistance if any Defendant or
 15 any person holding possession under or through such Defendant(s) shall refuse to surrender
 16 possession to the purchaser immediately on the purchaser's demand for possession.
 17 11. Under the terms of the Loan there is now due and owing to Plaintiff the following amounts:

Principal		\$158,253.55	
Prejudgment interest at 4.75% through November 1, 2018 (accruing thereafter until entry of judgment at \$20.88 per diem)			\$20,045.44
Late Charges		\$0.00	
Other Costs and fees (recoverable)		4,588.22	
	Escrow Balance	\$3,953.22	
	Appraisal	\$635.00	
	Subtotal		\$162,841.77
	Total plus Prejudgment Interest		\$182,887.21

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1 12. Attorney Fees and Costs are awarded to Plaintiff as follows:

2

Costs			\$1,891.00
	Title Search Cost	\$633.00	
	Filing Fee	\$560.00	
	Lis Pendens Recording Fee	\$68.00	
	Service Costs	\$355.00	
	Prevailing Party Fee	\$275.00	
Attorney fees			\$2,600.00
Total			\$4,491.00

7

8 13. Post judgment interest on all amounts shall accrue from the date of judgment at the legal
9 rate of 9% per annum pursuant to ORS 82.010.

10 14. This Judgment shall not create a personal lien or liability against Borrower except as is
11 customary or necessary to execute on such Judgment and for purposes of redemption. In no
12 event should it be construed as establishing personal liability for any persons whose debt has
13 been extinguished in bankruptcy or by an In Rem order granting relief from stay, but only to
14 foreclose the deed of trust mortgage. In the event the proceeds of sale are insufficient to pay
15 the amounts due to Plaintiff, no general execution shall be issued and Plaintiff shall not be
16 entitled to any further judgment, including a judgment for deficiency.

17
18 15. Execution may issue against the subject property for the aggregate amount found due
19 Plaintiff herein as detailed in Paragraphs 11 through 13 together (together "Amounts Due").
20 Plaintiff may credit bid up to the Amounts Due plus such additional amounts as provided by
21 ORS 18.936 or other applicable law.
22

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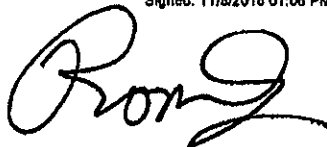
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1 16. If before sale such amount, including sheriff's fees for the execution, is tendered to the
2 Court and paid to the clerk, the execution, if issued, shall be recalled and the effect of the
3 judgment as to the amounts due shall be terminated.

4 17. The Clerk of the Court is hereby ordered to issue a Writ of Execution in Foreclosure for the
5 sale of the Property. Plaintiff may credit bid the amounts determined in Paragraphs 11
6 through 13 plus such additional amounts as provided in Paragraph 16 for purposes of ORS
7 18.936.
8

9 18. This Court shall retain jurisdiction to enter such additional order, judgment or decree
10 necessary to enforce this judgment, the writ of execution or for the purchaser at the
11 foreclosure sale to obtain possession.
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Signed: 11/8/2018 01:08 PM



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17
18 Circuit Court Judge Ron D. Gransky

19
20 **Certificate of Readiness under UTCR 5 100**

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

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

28 5 - GENERAL JUDGMENT OF FORECLOSURE AND
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- 1 a. No objection has been served on me.
2 b. I received objections that I could not resolve with a party despite reasonable efforts to do
3 so. I have filed a copy of the objections I received and indicated which objections remain
4 unresolved.
5 c. After conferring about objections, [role and name of objecting party] agreed to
6 independently file any remaining objection.
7 4. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
8 otherwise. UTCR 8/1/16 5.5 (including out-of-cycle amendment of 5.100)
9 5. This is a proposed judgment that includes an award of punitive damages and notice has
10 been served on the Director of the Crime Victims' Assistance Section as required by subsection
11 (5) of this rule.
12 6. Other: _____

Submitted by:

Attorneys for Plaintiff,
SHAPIRO & SUTHERLAND, LLC

By: _____

11-1-18
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