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JACKSON COUNTY
SHERIFF'S OFFICE

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

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

CHARLES M. MACHINSKY, an individual;
SOUTHERN OREGON CREDIT SERVICE,
INC., an Oregon corporation; INTERNAL
REVENUE SERVICE, a government entity;
OREGON DEPARTMENT OF REVENUE, a
government entity; and all other persons or
parties unknown, claiming any legal or
equitable right, title, estate, lien, or interest in
the real property described in the complaint
herein, adverse to plaintiff's title, or any cloud
on plaintiff's title to the property, collectively
designated as DOES 1 through 50, inclusive.

Defendants.

Case No.: 13CV01239

WRIT OF EXECUTION IN
FORECLOSURE

TO THE JACKSON COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on October 31, 2013.
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 Brady Godbout
Attorney for Plaintiff

1 McCarthy & Holthus, LLP
2 920 SW 3rd Ave, 1st Floor
 Portland, OR 97204

3 With the adjudicated amount due of \$210,860.91, plus pre judgment interest at the per diem of
4 \$26.6156 from September 24, 2013 to October 30, 2013 in the amount of \$984.78, plus post
5 judgment interest at the statutory rate of 9.0% per annum from October 31, 2013 to December
6 20, 2018 in the amount of \$98,002.24, and continuing with a per diem of \$52.24, currently
7 totaling \$309,847.93.

8 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
9 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
10 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
11 about April 25, 2010, the date of the Deed of Trust, and also the interest that the Defendant had
12 thereafter, in the real property described as shown in *Exhibit 1*, having APN No. 10155841 and
13 commonly known as: 13115 Three Oaks Dr., White City, OR 97503-8534.

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

Signed: 12/17/2018 01:25 PM



Jamye Norman E

JSS3

1 Dated: 12/17/2018 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ Brady Godbout

4 _ John Thomas OSB No. 024691
5 _ Andreanna Smith OSB No. 131336
6 x Brady Godbout OSB No. 132708
7 _ Jeremy Clifford OSB No. 142987
8 _ Michael Scott OSB No. 973947
9 920 SW 3rd Ave, 1st Floor
10 Portland, OR 97204
11 Phone: (971) 201-3200
12 Fax: (971) 201-3202
13 bgodbout@mccarthyholthus.com
14 Of Attorneys for Plaintiff
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EXHIBIT 1

Commencing at the northeast corner of the Southeast Quarter of the Southeast Quarter of Section 23 in Township 35 South, Range 2 West, of the Willamette Meridian in Jackson County, Oregon; thence West, along the north line of said Quarter-Quarter, 690.0 feet; thence South $0^{\circ} 01'$ West, parallel with the east line of said Section, 691.42 feet to the True Point of Beginning; thence continue South $0^{\circ} 01'$ West 172.86 feet; thence West, parallel with the north line of said Quarter-Quarter, 252.0 feet; thence North $0^{\circ} 01'$ East 172.86 feet; thence East, parallel with said north line, 252.0 feet to the True Point of Beginning.

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

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

**CHARLES M. MACHINSKY, an individual;
SOUTHERN OREGON CREDIT SERVICE,
INC., an Oregon corporation; INTERNAL
REVENUE SERVICE, a government entity;
OREGON DEPARTMENT OF REVENUE, a
government entity; and all other persons or
parties unknown claiming any legal or
equitable right, title, estate, lien, or interest in
the real property described in the complaint
herein, adverse to Plaintiff's title, or any cloud
on Plaintiff's title to the Property, collectively
designated as DOES 1 through 50, inclusive.**

Defendants.

CASE NUMBER: 13CV01239

**GENERAL JUDGMENT OF
FORECLOSURE AGAINST:**

- 1. CHARLES M. MACHINSKY**
- 2. SOUTHERN OREGON CREDIT SERVICE, INC.**
- 3. INTERNAL REVENUE SERVICE**
- 4. OREGON DEPARTMENT OF REVENUE**

13CV01239
PPJQ
Judgment - Proposed
639738



1.

THIS MATTER, coming on regularly before the Court on this day and it appearing from the record herein that Plaintiff BANK OF AMERICA, N.A. ("Plaintiff") filed its Complaint for Foreclosure of Deed of Trust; that Defendants CHARLES M. MACHINSKY, SOUTHERN OREGON CREDIT SERVICE, INC., INTERNAL REVENUE SERVICE and OREGON DEPARTMENT OF REVENUE (collectively referred to as "Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, and that the ORDER FOR ENTRY OF DEFAULT AGAINST DEFENDANT CHARLES M. MACHINSKY AND SOUTHERN OREGON CREDIT SERVICE, INC., ORDER FOR ENTRY OF DEULT

1 AGAINST DEFENDANT OREGON DEPARTMENT OF REVENUE, and ORDER FOR ENTRY
2 OF DEFAULT AGAINST DEFENDANT INTERNAL REVENUE SERVICE have been entered
3 against them on Plaintiff's Complaint.

4 2.

5 Plaintiff hereby requests that this General Judgment be entered into the Court's register to
6 accomplish the foreclosure of any and all interest of the Defendants in the real property subject to
7 this foreclosure action, located at 13115 THREE OAKS DR, WHITE CITY, OR 97503.

8 3.

9 The Court being fully advised; it is hereby
10 ORDERED AND ADJUDGED:

11 4.

12 That Plaintiff is the holder of the promissory note ("Note"), dated April 25, 2010, and made,
13 delivered, and executed by CHARLES M. MACHINSKY, in the amount of \$201,188.00.

14 5.

15 That the Note is secured via the Deed of Trust executed and delivered by BANK OF
16 AMERICA, N.A. on or about April 25, 2010, under the recording number 2010-013519 of the
17 Official Records of Jackson County, Oregon, by the property located at 13115 THREE OAKS DR,
18 WHITE CITY, OR 97503, Parcel No. 1-015584-1, legal description attached hereto as Exhibit "1,"
19 ("Property") which constitutes a valid lien ("Lien").

20 6.

21 That Defendant CHARLES M. MACHINSKY failed to comply with the terms of the Note
22 and Deed of Trust by failing to make the payments due and owing according to the terms of the Note
23 and Deed of Trust. Pursuant to the terms of the Note and Deed of Trust, Plaintiff has now declared
24 all sums due and owing under the Note and Deed of Trust as immediately due and payable.

25 7.

26 That the Lien is a valid first priority lien encumbering the Property and is superior to any
27 interest, lien, or claim of Defendant or any other party in the Property and that the Deed of Trust is
28 hereby foreclosed by this Court on the Property.

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8.

That a judgment of foreclosure in the amount of \$210,860.91 shall be granted in favor of Plaintiff or its successors or assigns, as further described in the Money Award below.

9.

That all of the right, title, and interest which BANK OF AMERICA, N.A. had on the date of the Deed of Trust, and all of the right, title, and interest the Defendants and any successor thereafter had in and to the real Property is hereby ordered to be sold by law and the proceeds of sale shall be applied toward the satisfaction of Plaintiff's money award 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.

10. 10.

That 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.

11. 11.

That 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.

12. 12.

That Defendants, and all parties claiming through or under them 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.

13. 13.

That Defendant CHARLES M. MACHINSKY is not entitled to a homestead exemption on account of his interest in the Property.

14. 14.

That Plaintiff may become purchaser at the Sheriff's Sale of the Property and may bid up to

1 the aggregate amount of its Money Award plus interest from the date of this Judgment until sale
2 without advancing any cash except money required for the Sheriff's Sale.

3 15.

4 That the purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate
5 possession of the Property from and after the date of the sale, and is entitled to such remedies as are
6 available at law to secure possession of the Property, and that the Judgment entered herein shall have
7 the same effect as a writ of assistance, if Defendants, any of them, or any other party or person shall
8 refuse to surrender possession of the Property to the purchaser immediately on the purchaser's
9 demand for possession.

10 16.

11 That this Court shall retain jurisdiction to enforce all provisions of the Judgment and to enter
12 such additional order, judgment, or decree necessary for the purchaser at the foreclosure sale to
13 obtain possession of the Property.

14 17.

15 Under the Note, there is now due and owing to Plaintiff, the following amounts, to be
16 hereinafter described as the Money Award.

17 **MONEY AWARD**

- 18 1. Judgment Creditor: BANK OF AMERICA, N.A.
- 19 c/o Malcolm Cisneros
- 20 2112 Business Center Drive, Second Floor
- 21 Irvine, CA 92612
- 22 2. Judgment Creditor's Attorney: Nathan F. Smith
- 23 3. Total Amount of Money Award: \$210,860.91

24 **Lender's Principal and Interest:**

25 Principal Balance: \$194,294.17

26 Accrued Interest from August 1, 2012 to September 23, 2013: \$11,333.84

27 ***Total Principal and Interest: \$205,628.01***

28 **Lender's Fees and Costs:**

1	Tax Disbursements	\$905.13
2	MIP/PMI Insurance	\$693.15
3	Hazard Insurance Disbursements	\$387.62
4	Title Fees	\$755.00
5	Property Inspections/Preservation	\$60.00
6	Total Lender's Fees and Costs:	\$2,800.90
7	Total Lender's Principal, Interest, Fees, and Costs:	\$208,428.91
8	<u>Attorney's Fees and Costs:</u>	
9	Foreclosure Fee	\$1,435.00
10	Filing Cost	\$505.00
11	Recording Cost	\$59.00
12	Service Cost	\$433.00
13	Total Attorney's Fees and Costs	\$2,432.00
14	Total Money Award (Judgment):	\$210,860.91

15 4. Additional Pre-Judgment interest to accrue pursuant to ORS 18.042 from the date of
 16 submission of this general judgment to the date it is entered into the Court's register at 5.000% per
 17 annum (\$26.6156 per diem).

18 5. Post-Judgment interest shall continue to accrue thereafter on the total money award
 19 amount at the legal rate of interest or 9% per annum.

20 18.

21 This suit does not constitute an attempt to collect the debt against CHARLES M.
 22 MACHINSKY under the Note.

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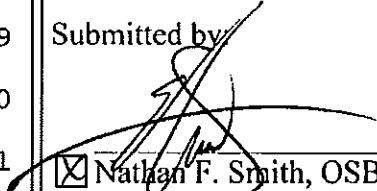
Rather, it is a suit to execute upon the Property as security for the Money Award to the Plaintiff.

DATED this: ___ day of _____, 2013

Signed: 10/17/2013 12:09:25 PM


CIRCUIT COURT JUDGE

Submitted by



Dated: 10/2/13

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

EXHIBIT 1

Verified Correct Copy of Original 10/14/2013.



LEGAL DESCRIPTION

Commencing at the northeast corner of the Southeast Quarter of the Southeast Quarter of Section 23 in Township 35 South, Range 2 West, of the Willamette Meridian in Jackson County, Oregon; thence West, along the north line of said Quarter-Quarter, 690.0 feet; thence South $0^{\circ} 01'$ West, parallel to the east line of said Section, 691.42 feet to the True Point of Beginning; thence continue South $0^{\circ} 01'$ West 172.86 feet; thence West, parallel to the north line of said Quarter-Quarter, 252.0 feet; thence North $0^{\circ} 01'$ East 172.86 feet; thence East, parallel to said north line, 252.0 feet to the True Point of Beginning.