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

NATIONSTAR MORTGAGE LLC D/B/A
CHAMPION MORTGAGE COMPANY,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF WILLIAM A. ABERCROMBIE, SR.
AKA WILLIAM ABERCROMBIE, THE
UNKNOWN HEIRS AND DEVISEES OF
ROSE HAMILTON; NANETTE ANDREA
MARTIN; STATE OF OREGON; UNITED
STATES OF AMERICA; OCCUPANTS OF
THE PROPERTY;

Defendants.

Case No.: 18CV03103

WRIT OF EXECUTION IN
FORECLOSURE

TO THE JOSEPHINE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on 11/5/2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

NATIONSTAR MORTGAGE LLC D/B/A CHAMPION MORTGAGE COMPANY
c/o Andreanna Smith
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$237,514.32, plus post judgment interest at the statutory rate
2 of 9.0% per annum from 11/5/2018 to 12/7/2018 in the amount of \$1,874.24, continuing with a
3 per diem of \$58.57, currently totaling \$239,388.56.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
7 about June 16, 2008, the date of the Deed of Trust, and also the interest that the Defendant had
8 thereafter, in the real property described as attached as Exhibit 1 and commonly known as: 5140
9 Dick George Road, Cave Junction, OR 97523.

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.

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18 DEC 06 2018

B. Skypur

Court Clerk



19 Dated: 12/5/2018 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Andreanna Smith
22 Andreanna Smith OSB No. 131336
23 920 SW 3rd Ave, 1st Floor
24 Portland, OR 97204
25 Phone: (971) 201-3200
26 Fax: (971) 201-3202
27 ansmith@mccarthyholthus.com
28 Of Attorneys for Plaintiff

Exhibit "1"

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 40 SOUTH, RANGE 8 WEST, OF THE WILLAMETTE MERIDIAN, JOSEPHINE COUNTY, OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 2; THENCE SOUTH 45 FEET TO AN IRON PIPE, WHICH IS THE TRUE POINT OF BEGINNING; THENCE WEST 701.13 FEET PARALLEL TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 2 TO THE EASTERLY BOUNDARY OF DICK GEORGE ROAD; THENCE ALONG THE EASTERLY BOUNDARY OF SAID ROAD ON AN ARC OF A CURVE TO THE RIGHT, THE LONG CHORD OF WHICH BEARS SOUTH 38°53' EAST, 287.70 FEET TO AN IRON PIN MARKING THE POINT OF TANGENT AT STATION 19+14.69; THENCE SOUTH 29°18' EAST, 212.50 FEET ALONG THE EASTERLY BOUNDARY OF SAID ROAD TO AN IRON PIPE; THENCE NORTH 60°42' EAST, 477.65 FEET TO AN IRON PIPE; THENCE NORTH 175.51 FEET TO THE TRUE POINT OF BEGINNING.

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Plaintiff,

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THE UNKNOWN HEIRS AND DEVISEES
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MARTIN; STATE OF OREGON; UNITED
STATES OF AMERICA; OCCUPANTS OF
THE PROPERTY;

Defendants.

Case No.: 18CV03103

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

All defendants (“Defaulted Defendants”) were duly served with process and failed to appear; the default has been entered against Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States;

2.

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 Josephine County, Oregon, and is commonly known as 5140 Dick George Road, Cave Junction, OR 97523 (the “Subject Property”), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R331551.

1 b. Plaintiff is entitled to enforce the note dated June 16, 2008 and made, delivered, and executed
2 by WILLIAM A. ABERCROMBIE, SR. and ROSE HAMILTON to COUNTRYWIDE
3 BANK, FSB in the amount of \$370,350.00 (the "Note"). The Note was transferred to
4 Plaintiff by delivery of possession and by indorsement set forth on the Note.

5 c. A deed of trust was made, executed, and delivered by Borrowers WILLIAM A.
6 ABERCROMBIE, SR. and ROSE HAMILTON on or about June 16, 2008 (the "Deed of
7 Trust"). The Deed of Trust was recorded on June 20, 2008 as Instrument No. 2008-010058
8 in the official records of Josephine County, Oregon. The Deed of Trust is a valid and
9 perfected lien against all of the Property for and securing the Amount Due. The lien of the
10 Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect
11 until issuance of a Sheriff's Deed.

12 d. The Borrowers failed to make the payment that was due for December 30, 2015 and has not
13 cured the default. The amount of debt secured by the Deed of Trust that is now due and
14 owing is comprised of the following amounts (the "Amount Due"):

15	a) Unpaid principal balance up to:	\$161,966.06
16	b) Prejudgment interest accruing	
17	through 10/31/2018 and continuing	
18	until the entry of judgment at the	
19	current Note rate of 4.25%:	\$47,153.13
20	c) Additional amounts due under the	\$23,557.69
21	terms of the loan:	
22	d) Attorney fees and costs:	\$4,752.44
23	e) Prevailing party fee (ORS 20.190	\$85.00
24	(1)(a)):	
25	Total:	\$237,514.32

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

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

4 f. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the
5 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a
6 28 U.S.C. § 2410(c) one-year redemption right in this case.

7 g. The Borrowers is not entitled to a homestead exception as against Plaintiff's judgment.

8 h. All right, title and interest in the Subject Property that Borrowers WILLIAM A.
9 ABERCROMBIE, SR. and ROSE HAMILTON had as of the date of the Deed of Trust or
10 thereafter acquired is hereby ordered to be sold by the Josephine County Sheriff's Office in
11 accordance with the process for sale upon execution, and the proceeds of sale shall be
12 applied:

13 1) First, to the costs of sale not incurred by Plaintiff;

14 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
15 entry of judgment through the date of the sale and any incurred costs of sale;

16 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
17 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
18 such party or parties as they may establish their right thereto.

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

22 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
23 Property from and after the date of the sale and is entitled to such remedies as are available at
24 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
25 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
26 possession to the purchaser immediately upon the purchaser's demand for possession.

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

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

6 m. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
7 Deed of Trust are as follows:

8 1) Defendant STATE OF OREGON may have an additional interest in the Property by
9 virtue of a requests for notice of transfer or encumbrance recorded in the official
10 records of Josephine County as Instrument No. 2007-024375 on 12/31/2007and as
11 Instrument No. 2011-000853 on 1/20/2011.

12 2) Defendant UNITED STATES OF AMERICA may claim an interest in the Subject
13 Property under the terms of an additional, subordinate note and deed of trust,
14 associated with this loan issued to the Secretary of Housing and Urban Development
15 (the "HUD Loan"). The deed of trust associated with the HUD Loan is recorded in
16 the official records of Josephine County as Instrument No. 2008-010059 on
17 6/20/2008;

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1 3) Defendant STATE OF OREGON may claim an interest in the Property by virtue of
2 deferred taxes under notice recorded in the official records of Josephine County as
3 Instrument No. 2010-004622 on 4/12/2010.

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7 Signed: 11/5/2018 07:58 AM

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10 **Circuit Court Judge Robert S. Bain**

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

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

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

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

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

20 No objection has been served on me.

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

24 After conferring about objections, _____ agreed to independently file
25 any remaining objection.

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

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

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

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

4 [] Other: _____

5 Dated: 10/30/2018 and submitted by:

6 **McCarthy & Holthus, LLP**

7 s/ Andreanna C. Smith

8 Andreanna Smith OSB No. 131336

9 920 SW 3rd Ave, 1st Floor

10 Portland, OR 97204

11 Phone: (971) 201-3200

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