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

U.S. BANK NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY BUT
SOLELY AS TRUSTEE FOR THE RMAC
TRUST, SERIES 2016-CTT,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF MILDRED KIEFER; AKA MILDRED W.
KIEFER; BENJAMIN MASTEN; UNITED
STATES OF AMERICA, STATE OF
OREGON, OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 18CV06738

WRIT OF EXECUTION IN
FORECLOSURE

TO THE JOSEPHINE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on 12/5/2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY
BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2016-CTT

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 \$227,656.11, plus pre-judgment interest at \$8.55 per diem
2 from 12/03/2018 through 12/05/2018, in the amount of \$17.10, plus post judgment interest at the
3 statutory rate of 9.0%, per annum from 12/5/2018 to 2/11/2019 in the amount of \$3,817.52, and
4 continuing with a per diem of \$56.14, currently totaling \$231,490.73.

5 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
6 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
7 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
8 about May 31, 2007, the date of the Deed of Trust, and also the interest that the Defendant had
9 thereafter, in the real property described in the attached Exhibit 1, APN: R337903 and commonly
10 known as: 2116 Mendi Way, Grants Pass, OR 97527.

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

16 FEB 11 2019

17 *C. Huffman*

18 Court Clerk



1 Dated: 2/8/2019 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ Andreanna Smith

4 John Thomas OSB No. 024691
5 Robert Hakari OSB No. 114082
6 X Andreanna Smith OSB No. 131336
7 Brady Godbout OSB No. 132708
8 Cruz Turcott OSB No. 165531
9 Jeremy Clifford OSB No. 142987
10 Michael Scott OSB No. 973947

920 SW 3rd Ave, 1st Floor

Portland, OR 97204

Phone: (971) 201-3200

Fax: (971) 201-3202

ansmith@mccarthyholthus.com

Of Attorneys for Plaintiff

EXHIBIT 1

EXHIBIT 1

Legal Description

**LOT 10, REDWOOD MEADOWS SUBDIVISION, JOSEPHINE COUNTY, OREGON,
ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN VOLUME 9, PAGE
184, PLAT RECORDS.**

End of Legal Description

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

U.S. BANK NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY
BUT SOLELY AS TRUSTEE FOR THE
RMAC TRUST, SERIES 2016-CTT,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF MILDRED KIEFER AKA MILDRED
W. KIEFER; BENJAMIN MASTEN;
UNITED STATES OF AMERICA; STATE
OF OREGON, OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 18CV06738

GENERAL JUDGMENT OF
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. Defendants THE UNKNOWN HEIRS AND DEVISEES OF MILDRED KIEFER AKA MILDRED W. KIEFER; BENJAMIN MASTEN; UNITED STATES OF AMERICA; STATE OF OREGON, OCCUPANTS OF THE PROPERTY ("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, now therefore,

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 2116 Mendi Way, Grants Pass, OR 97527 (the "Subject

1 Property”), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
2 R337903.

3 b. Plaintiff is entitled to enforce the note dated May 25, 2007 and made, delivered, and executed
4 by MILDRED KIEFER to Golf Savings Bank in the amount of \$277,500.00 (the “Note”).
5 The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth
6 on the Note.

7 c. A deed of trust was made, executed, and delivered by MILDRED KIEFER on or about May
8 25, 2007 (the “Deed of Trust”). The Deed of Trust was recorded on May 31, 2007 as
9 Instrument No. 2007-010689 in the official records of Josephine County, Oregon. The Deed
10 of Trust is a valid and perfected lien against all of the Property for and securing the Amount
11 Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and
12 shall remain in effect until issuance of a Sheriff’s Deed.

13 d. Under the terms of the Note and Deed of Trust, all amounts due under the Note, including
14 principal, interest, fees and costs, are due and payable immediately upon the death of the
15 borrower. The Borrower passed away on August 20, 2014. The amount of debt secured by
16 the Deed of Trust that is now due and owing is comprised of the following amounts (the
17 “Amount Due”):

- | | | |
|----|---|--------------|
| 18 | a) Unpaid principal balance: | \$207,952.49 |
| 19 | b) Prejudgment interest ¹ accruing | \$6,019.64 |
| 20 | from 1/14/2017 through 12/3/2018 | |
| 21 | and continuing until the entry of | |
| | judgment at the current Note rate of | |
| | 1.50%: | |
| 22 | c) Additional amounts due under the | \$8,933.20 |
| 23 | terms of the loan: | |
| 24 | d) Attorney fees and costs: | \$4,665.78 |
| 25 | e) Prevailing party fee (ORS 20.190 | \$85.00 |

26 _____
27 ¹ Interest continues to accrue at the rate of \$8.55 per diem. Since the date of the Declaration of Amounts Due and
28 Owing, 64 days have passed

1 (1)(a):

2 **Total: \$227,656.11**

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. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the
10 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a
11 28 U.S.C. § 2410(c) one-year redemption right in this case.

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

13 h. All right, title and interest in the Subject Property that Defendant MILDRED KIEFER had as
14 of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
15 Josephine County Sheriff's Office in accordance with the process for sale upon execution,
16 and the proceeds of sale shall be applied:

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

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

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

23 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
24 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
25 the date of entry of judgment through the date of the sale and any incurred costs of sale.

26 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
27 Property from and after the date of the sale and is entitled to such remedies as are available at

1 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
2 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
3 possession to the purchaser immediately upon the purchaser's demand for possession.

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

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

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

11 1) Defendant UNITED STATES OF AMERICA may claim an interest in the Subject
12 Property under the terms of an additional, subordinate note and deed of trust,
13 associated with this loan issued to the Secretary of housing and Urban Development (
14 the "HUD Loan") in the amount of \$277,500.00. The deed associated with the HUD
15 Loan is recorded in the official records of Josephine County as Instrument No. 2007-
16 010690 on 5/31/2017.

17 2) Defendant STATE OF OREGON may claim an interest in Subject Property by virtue
18 of a request for notice recorded 01/22/2015 as Instrument No. 2015-000830 in the
19 official records of Josephine County.

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1 3) Defendant STATE OF OREGON has or may have a lien against the Property under
2 the State of Oregon tax deferral program.

3 4) Defendant BENJAMIN MASTEN and THE UNKNOWN HEIRS AND DEVISEES
4 OF MILDRED KIEFER AKA MILDRED W. KIEFER may claim a junior interest in
5 the Property by virtue of intestate succession, devise or operation of law.
6
7
8

9 Signed: 12/4/2018.12:54 PM

10 

11 **Circuit Court Judge Lindi L. Baker**
12

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

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

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

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

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

22 No objection has been served on me.

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

26 After conferring about objections, _____ agreed to independently file
27 any remaining objection.

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

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

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: 12/3/2018 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

12 Fax: (971) 201-3202

13 ansmith@mccarthyholthus.com

14 Of Attorneys for Plaintiff

EXHIBIT 1

LOT 10, REDWOOD MEADOWS SUBDIVISION, JOSEPHINE COUNTY, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN VOLUME 9, PAGE 184, PLAT RECORDS.