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LINN COUNTY
SHERIFFS OFFICE

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

BANK OF NEW YORK MELLON TRUST
COMPANY, N.A. AS TRUSTEE FOR
MORTGAGE ASSETS MANAGEMENT
SERIES I TRUST,

Plaintiff,

v.

THE ESTATE OF ROY R. WITHERSPOON;
THE UNKNOWN HEIRS, DEVISEES AND
ASSIGNEES OF ROY R. WITHERSPOON;
MARK WITHERSPOON; SECRETARY OF
HOUSING AND URBAN DEVELOPMENT;
and ALL OTHER PERSONS OR PARTIES
UNKNOWN CLAIMING ANY RIGHT,
TITLE, LIEN, OR INTEREST IN THE REAL
PROPERTY COMMONLY KNOWN AS
42104 CLARK SMITH DRIVE, LEBANON,
OREGON 97355,

Defendant.

Case No. 18CV44902

WRIT OF EXECUTION

TO THE LINN COUNTY SHERIFF:

On 4/8/2019, a General Judgment of Foreclosure and Declaration of Amount Due by Default was entered by the Linn County Circuit Court, foreclosing Plaintiff's Deed of Trust and directing that the property subject to the Deed of Trust be sold to satisfy the unpaid debt due to Plaintiff.

The mailing address for the judgment creditor is: BANK OF NEW YORK MELLON TRUST COMPANY, N.A. AS TRUSTEE FOR MORTGAGE ASSETS MANAGEMENT SERIES I TRUST c/o Aldridge Pite, LLP, 111 SW Columbia St., Ste. 950, Portland, OR 97201.

1 The real property to be sold at public auction is commonly known as 42104 CLARK
2 SMITH DRIVE, LEBANON, OREGON 97355 ("Subject Property"), and legally described as:

3 BEGINNING AT THE SOUTHEAST CORNER OF SECTION 30, IN TOWNSHIP 11
4 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON;
5 AND RUNNING THENCE WESTERLY, ALONG THE SOUTH LINE OF SAID SECTION
6 30, A DISTANCE OF 568.7 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF A
7 PARCEL OF LAND CONVEYED TO MATT N. SCHULD, ET UX, AND DESCRIBED AS
8 THE EAST PARCEL IN SECTION 30 IN DEED RECORDED IN LINN COUNTY
9 MICROFILM RECORDS VOLUME 187, PAGES 846 AND 847; THENCE NORTH 160
10 FEET, MORE OR LESS, TO THE CENTERLINE OF THE COUNTY ROAD; THENCE
11 NORTHEASTERLY, ALONG SAID CENTERLINE, 710 FEET, MORE OR LESS, TO THE
12 EAST LINE OF SAID SECTION 30; THENCE SOUTHERLY, ALONG SAID EAST LINE,
13 590 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

14 The total amount due and owing on the Judgment as of 4/12/2019;

15 Judgment:	Principal	\$157,386.07
16 Pre-Judgment:	Interest(3.476%,\$13.50/day)	\$958.50 (1/27/19 through 4/8/19)
17	Attorney Fees	\$2,940.00
18	Costs	\$4,053.01
19	Prevailing Party Fee	\$300.00
20 Post-Judgment:	Interest(9%,\$40.90/day)	\$163.63 (4/9/19 through 4/12/19)
21	Attorney Fees	\$260.00
22	Costs	\$0.00

23 **TOTAL: \$166,061.21**

24 In the name of the State of Oregon, you are hereby directed to proceed to notice for sale
25 and sell the Subject Property. After the sale, you are directed to issue a certificate of sale to the
26 purchaser and file a return on the writ of execution, depositing the sale proceeds with the Court.

Page 2 – WRIT OF EXECUTION

1 Further, you are directed to execute, after the time for redemption has elapsed, a deed to the
2 holder of the certificate of sale.

3 By the signature of the attorney for the judgment creditor, the person that requested
4 issuance of the Writ hereby authorizes the sheriff to continue execution under the Writ and delay
5 making a return on the writ to a date up to 150 days after receipt.



Signed: 4/12/2019 03:52 PM

Cynthia Mitchell

Cynthia Mitchell, Administrative Authority

6
7
8
9 Presented by:
10 ALDRIDGE PITE, LLP

11 By: *Katie Riggs*
12 Katie Riggs, OSB #095861
13 of Attorneys for Judgment Creditor
14 (858) 750-7600
15 (503) 222-2260 (facsimile)
16 orecourtnotices@aldridgepite.com

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FOR THE COUNTY OF LINN**

BANK OF NEW YORK MELLON TRUST
COMPANY, N.A. AS TRUSTEE FOR
MORTGAGE ASSETS MANAGEMENT
SERIES I TRUST,

Plaintiff,

v.

THE ESTATE OF ROY R. WITHERSPOON;
THE UNKNOWN HEIRS, DEVISEES AND
ASSIGNEES OF ROY R. WITHERSPOON;
MARK WITHERSPOON; SECRETARY OF
HOUSING AND URBAN DEVELOPMENT;
and ALL OTHER PERSONS OR PARTIES
UNKNOWN CLAIMING ANY RIGHT,
TITLE, LIEN, OR INTEREST IN THE REAL
PROPERTY COMMONLY KNOWN AS
42104 CLARK SMITH DRIVE, LEBANON,
OREGON 97355,

Defendants.

Case No. 18CV44902

**GENERAL JUDGMENT OF
FORECLOSURE AND DECLARATION OF
AMOUNT DUE BY DEFAULT**

ORCP Rule 69

THIS IS A JUDGMENT OF FORECLOSURE
AND DOES NOT CONSTITUTE A MONEY
AWARD AGAINST ANY DEFENDANT

Based upon the Court's Order of Default against defendants THE ESTATE OF ROY R. WITHERSPOON; THE UNKNOWN HEIRS, DEVISEES AND ASSIGNEES OF ROY R. WITHERSPOON; MARK WITHERSPOON; SECRETARY OF HOUSING AND URBAN DEVELOPMENT; and ALL OTHER PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 42104 CLARK SMITH DRIVE, LEBANON, OREGON 97355, the records on file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by Default by Plaintiff BANK OF NEW YORK MELLON TRUST COMPANY, N.A. AS TRUSTEE FOR

1 MORTGAGE ASSETS MANAGEMENT SERIES I TRUST ("Plaintiff"),

2 **IT IS HEREBY ADJUDGED:**

3 1. Plaintiff's security interest in the real property located at 42104 CLARK SMITH
4 DRIVE, LEBANON, OREGON 97355 ("Subject Property"), as evidenced by the Deed of Trust
5 recorded February 19, 2009 in the official records of LINN County as instrument number 2009-
6 02928 ("Deed of Trust"), is a viable first priority lien, superior to the interests of all the
7 Defendants. All rights, claims, ownerships, liens, titles and demands of all Defendants are
8 subsequent to Plaintiff's lien as created by the Note and Deed of Trust. The Subject Property is
9 legally described as follows:

10 BEGINNING AT THE SOUTHEAST CORNER OF SECTION 30, IN TOWNSHIP 11
11 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, LINN COUNTY,
12 OREGON; AND RUNNING THENCE WESTERLY, ALONG THE SOUTH LINE OF
13 SAID SECTION 30, A DISTANCE OF 568.7 FEET, MORE OR LESS, TO THE
14 SOUTHEAST CORNER OF A PARCEL OF LAND CONVEYED TO MATT N.
15 SCHULD, ET UX, AND DESCRIBED AS THE EAST PARCEL IN SECTION 30 IN
16 DEED RECORDED IN LINN COUNTY MICROFILM RECORDS VOLUME 187,
17 PAGES 846 AND 847; THENCE NORTH 160 FEET, MORE OR LESS, TO THE
18 CENTERLINE OF THE COUNTY ROAD; THENCE NORTHEASTERLY, ALONG
19 SAID CENTERLINE, 710 FEET, MORE OR LESS, TO THE EAST LINE OF SAID
20 SECTION 30; THENCE SOUTHERLY, ALONG SAID EAST LINE, 590 FEET,
21 MORE OR LESS, TO THE POINT OF BEGINNING.

22 2. The Deed of Trust is foreclosed and upon entry of this Judgment the court
23 administrator shall upon request of Plaintiff issue a writ of execution for the sale, by the Sheriff,
24 in the manner provided by law;

25 3. Plaintiff has submitted a Declaration of Amount Due and is owed the total amount
26 due under the Note and Deed of Trust and any future advances and/or fees that may be made or

1 incurred pursuant to the terms of the Note and Deed of Trust up to the date of the execution sale.
2 This amount is to be satisfied by sale of the Subject Property as directed under this Judgment;

3 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an
4 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule
5 68(C), which amount may be added to the outstanding obligation due and owing under the Note
6 and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant to the Deed of
7 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied
8 by sale of the Subject Property as directed under this Judgment;

9 5. Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule
10 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing
11 under the Note and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant
12 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This
13 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

14 6. Plaintiff is owed the prevailing party fee of \$300.00, this amount to be satisfied by
15 sale of the Subject Property as directed under this Judgment.

16 7. The Sheriff shall make a return on the writ of execution to the court administrator
17 along with the proceeds of the sale, if any. The proceeds of the sale, if any, shall be applied first
18 toward the costs of the sale; then toward the satisfaction of Plaintiff's Judgment of Foreclosure
19 awarded herein; and the surplus, if any, to the clerk of the court to be distributed to such party or
20 parties as may establish their right thereto. The Defendants and all persons claiming through or
21 under Defendants, whether lien claimants, judgment creditors, claimants arising under junior
22 mortgages or deeds of trust, purchasers, encumbrances or otherwise, shall be barred and
23 foreclosed from all rights, claims, interest or equity of redemption in the Subject Property and
24 every part of the Subject Property when the time for redemption has elapsed;

25 8. Plaintiff or any other party to this action may become a purchaser at the
26 foreclosure sale, and such purchaser shall be immediately let into possession of the subject

Page 3 – GENERAL JUDGMENT AND DECLARATION OF AMOUNT DUE BY DEFAULT

1 property, until redemption of the property, if any. The purchaser at the foreclosure sale or any
2 successor in interest may apply to this Court for a writ of assistance to gain possession of the
3 subject property if Defendants or any other party or person refuses to surrender possession;

4 DECLARATION OF AMOUNT DUE BY DEFAULT

5 (THIS IS A JUDGMENT OF FORECLOSURE AND DOES NOT CONSTITUTE A
6 MONEY AWARD AGAINST ANY DEFENDANT)

- 7
- 8 1. The total amount of the unpaid principal balance, interest, and other amounts
9 owed is \$157,386.07.
- 10 2. Simple interest at the variable rate currently at 3.476% (\$13.50 *per diem*) after
11 1/27/2019, through the date of judgment.
- 12 3. Attorney fees of \$2,940.00, plus \$260.00, through the date of sale.
- 13 4. Costs of \$4,053.01, plus costs accrued through the date of sale.
- 14 5. Prevailing party fee: \$300.00.
- 15 6. Post-judgment interest thereafter on the total judgment amount at the contract rate
16 of interest or 9.000% per annum, whichever is greater, through the date of sale.

17 **IT IS SO ADJUDGED**

18 Dated: April 8, 2019.

Signed: 4/8/2019 11:28 AM



19 **David E. Delsman, Circuit Court Judge**

20 CERTIFICATE OF READINESS

21 This proposed Order or Judgment is ready for judicial signature because:

- 22
- 23 1. Each party affected by this order or judgment has stipulated to the order or judgment,
as shown by each party's signature on the document being submitted.
- 24
- 25 2. Each party affected by this order or judgment has approved the order or judgment, as
shown by each party's signature on the document being submitted or by written
26 confirmation of approval sent to me.

Page 4 – GENERAL JUDGMENT AND DECLARATION OF AMOUNT DUE BY DEFAULT

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- 3. I have served a copy of this order or judgment on all parties entitled to service and:
 - a. No objection has been served on me;
 - b. I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
 - c. After conferring about objections, [**role and name of objecting party**] agreed to independently file any remaining objection.
- 4. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
- 5. This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.
- 6. Other: _____

Presented By:
ALDRIDGE PITE, LLP



Date: 4/2/2019

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(619) 326-2430
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Of Attorneys for Plaintiff