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LINN COUNTY  
SHERIFF'S OFFICE

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

NEW RESIDENTIAL MORTGAGE LOAN  
TRUST 2017-3,

Case No.: 18CV32600

Plaintiff,

vs.

WRIT OF EXECUTION IN  
FORECLOSURE

MATTHEW D. COKER; CFH  
INVESTMENTS LLC, ASSIGNEE OF  
FIFTH THIRD BANK; OCCUPANTS OF  
THE PROPERTY,

Defendants.

**TO THE LINN COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on March 11, 2019. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

NEW RESIDENTIAL MORTGAGE LOAN TRUST 2017-3  
c/o Andreanna Smith  
Attorney for Plaintiff  
McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

With the adjudicated amount due of \$90,325.37, plus pre judgment interest from 03/02/2019 to 03/11/2019 at the per diem rate of \$10.41 totaling, \$93.69, plus post judgment interest at the

1 statutory rate of 9.0% per annum from 03/11/2019 to 04/22/2019 in the amount of \$914.30, and  
2 continuing with a per diem of \$22.30 currently totaling \$91,333.36.

3 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are  
4 hereby commanded to sell, in the manner prescribed by law for the sale of real property on  
5 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or  
6 about June 16, 2003, the date of the Deed of Trust, and also the interest that the Defendant had  
7 thereafter, in the real property described as attached in Exhibit 1, with APN/Parcel # 143004, and  
8 commonly known and commonly known as: 1060 14th Avenue Southwest, Albany, OR 97321.

9 Sale of the property is to satisfy the sum listed above, plus the costs incurred in  
10 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under  
11 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.

12 You are to make the return within 60 days after you receive this Writ. Should the sale be  
13 continued, the writ may be automatically extended for 30 days.



*Katarie Driskill*

Signed: 4/19/2019 04:47 PM

Katarie Driskill, Administrative Authority

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19 Dated: 4/19/2019 and submitted by:

20  
21 **McCarthy & Holthus, LLP**

22 s/ Andreanna Smith

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

# EXHIBIT "1"

THE EASTERLY 5.0 FEET OF LOT 8 AND THE WESTERLY 46.5 FEET OF LOT 7, BLOCK 7,  
LINNMONT ADDITION, IN THE CITY OF ALBANY, OREGON.

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

NEW RESIDENTIAL MORTGAGE LOAN TRUST 2017-3,

Plaintiff,

v.

MATTHEW D. COKER; CFH INVESTMENTS LLC, ASSIGNEE OF FIFTH THIRD BANK; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 18CV32600

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 Linn County, Oregon, and is commonly known as 1060 14th Avenue Southwest, Albany, OR 97321 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 143004.
- b. Plaintiff is entitled to enforce the note dated June 16, 2003 and made, delivered, and executed by MATTHEW D. COKER to STERLING CAPITAL MORTGAGE COMPANY in the

1 amount of \$100,900.00 (the "Note"). The Note was transferred to Plaintiff by delivery of  
2 possession and by indorsement set forth on the Note.

3 c. A deed of trust was made, executed, and delivered by Defendant MATTHEW D. COKER on  
4 or about June 17, 2003 (the "Deed of Trust"). The Deed of Trust was recorded on June 19,  
5 2003 as Vol. 1441 Page 737 in the official records of Linn County, Oregon. The Deed of  
6 Trust is a valid and perfected lien against all of the Property for and securing the Amount  
7 Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and  
8 shall remain in effect until issuance of a Sheriff's Deed.

9 d. The Borrower failed to make the payment that was due for July 1, 2017 and has not cured the  
10 default. The amount of debt secured by the Deed of Trust that is now due and owing is  
11 comprised of the following amounts (the "Amount Due"):

12	a) Unpaid principal balance:	\$70,694.35
13	b) Prejudgment interest accruing from	
14	6/1/2017 through 3/1/2019 and	
15	continuing until the entry of	
16	judgment at the current Note rate of	
17	5.375%:	\$6,693.01
18	c) Additional amounts due under the	\$6,988.60
19	terms of the loan:	
20	d) Attorney fees and costs:	\$5,864.41
21	e) Prevailing party fee (ORS 20.190	\$85.00
22	(1)(a)):	
23	<b>Total:</b>	<b>\$90,325.37</b>

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

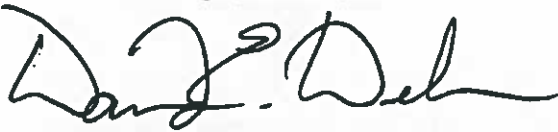
27 e. The interest of the Defendants and any successor in interest in the Subject Property is  
28 foreclosed and terminated excepting only any statutory right of redemption as provided by  
Oregon law.

- 1 f. The Defendant is not entitled to a homestead exception as against Plaintiff's judgment.
- 2 g. All right, title and interest in the Subject Property that Defendant MATTHEW D. COKER  
3 had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by  
4 the Linn County Sheriff's Office in accordance with the process for sale upon execution, and  
5 the proceeds of sale shall be applied:
- 6 1) First, to the costs of sale not incurred by Plaintiff;
- 7 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of  
8 entry of judgment through the date of the sale and any incurred costs of sale;
- 9 3) Third, the surplus, if any, to the Defendants in the priority as their interest may  
10 appear, described *infra*, or to the clerk of the court to be distributed by the Court to  
11 such party or parties as they may establish their right thereto.
- 12 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
13 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
14 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 15 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject  
16 Property from and after the date of the sale and is entitled to such remedies as are available at  
17 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a  
18 writ of assistance if any Defendant, other party, or other person shall refuse to surrender  
19 possession to the purchaser immediately upon the purchaser's demand for possession.
- 20 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be  
21 entitled to any further or other judgment, including a judgment for the deficiency.
- 22 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,  
23 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be  
24 terminated.
- 25 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the  
26 Deed of Trust are as follows:

1 1) Defendant CFH INVESTMENTS LLC, ASSIGNEE OF FIFTH THIRD BANK (the  
2 "Junior Interest Holder") may claim some interest in Subject Property by virtue of a  
3 judgment entered on 11/10/2014 in the Circuit Court of Linn County, Oregon, Case  
4 No. 14CV01055, in the amount of \$4,252.97.

5 Dated: Mar. 11, 2019.

8 Signed: 3/11/2019 01:30 PM

9 

10 David E. Delsman, Circuit Court Judge

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: 3/7/2019 and submitted by:

6            **McCarthy & Holthus, LLP**

7            s/ Andreanna 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

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