

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF10 MASTER PARTICIPATION
TRUST,

Plaintiff,

v.

KIMBERLY LYNN BARRETT AKA
KIMBERLY L. BARRETT; BANK OF
AMERICA, N.A.; WEYERHAEUSER NR
COMPANY; OCCUPANTS OF THE
PROPERTY;

Defendants.

Case No.: 18CV04921
Judge: Donald D Abar

WRIT OF EXECUTION IN
FORECLOSURE

TO THE MARION COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on May 13, 2019. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF10 MASTER PARTICIPATION
TRUST

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 \$390,429.73, plus pre judgment interest at the per diem of
2 \$45.42 from 5/9/2019 to 5/13/2019 in the amount of \$181.68, plus post judgment interest at the
3 statutory rate of 9.0% per annum from 5/14/2019 to 6/10/2019 in the amount of \$2,612.52, and
4 continuing with a per diem of \$96.32, currently totaling \$393,223.93.

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 September 9, 2011, the date of the Deed of Trust, and also the interest that the Defendant
9 had thereafter, in the real property described in the attached Exhibit 1, APN: R38596; R38597
10 and commonly known as: 17634 POWERS CREEK LP RD NE, SILVERTON, OR 97381.

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.

Signed: 6/10/2019 04:38 PM



Kristina Sheldon, Court Clerk



1 Dated: 6/5/2019 and submitted by:

2 McCarthy & Holthus, LLP

3
4
5 s/ Brady Godbout

6 _____
7 _ John Thomas OSB No. 024691
8 _ Andreanna Smith OSB No. 131336
9 x Brady Godbout OSB No. 132708
10 _ Bryan Kidder OSB No. 140459
11 _ Jeremy Clifford OSB No. 142987
12 _ Michael Scott OSB No. 973947
13 920 SW 3rd Ave, 1st Floor
14 Portland, OR 97204
15 Phone: (971) 201-3200
16 Fax: (971) 201-3202
17 bgodbout@mccarthyholthus.com
18 Of Attorneys for Plaintiff
19
20
21
22
23
24
25
26
27
28

Exhibit 1

BEGINNING AT AN IRON PIPE WHICH MARKS THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 10, TOWNSHIP 7 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, MARION COUNTY, OREGON; AND RUNNING THENCE NORTH 00 DEGREES 19' EAST ALONG THE WEST LINE OF SECTION 10, A DISTANCE OF 871.14 FEET TO THE CENTER OF COUNTY ROAD NO. 775; THENCE SOUTHEASTERLY ALONG THE CENTER OF SAID COUNTY ROAD, THE FOLLOWING COURSES AND DISTANCES: THENCE SOUTH 55 DEGREES 15' EAST 214.60 FEET; THENCE SOUTH 43 DEGREES 15' EAST 220.19 FEET; SOUTH 64 DEGREES 54' EAST 388.98 FEET; THENCE SOUTH 25 DEGREES 06' WEST 471.02 FEET TO AN IRON PIPE IN THE SOUTH LINE OF AFORESAID NORTHWEST ONE-QUARTER OF SECTION 10; THENCE SOUTH 89 DEGREES 20' WEST ALONG SAID SOUTH LINE, 466.42 FEET TO THE POINT OF BEGINNING .

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF10 MASTER PARTICIPATION
TRUST,

Plaintiff,

v.

KIMBERLY LYNN BARRETT AKA
KIMBERLY L. BARRETT; BANK OF
AMERICA, N.A.; WEYERHAEUSER NR
COMPANY; OCCUPANTS OF THE
PROPERTY;

Defendants.

Case No.: 18CV04921
Judge: Donald D Abar

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

- a. Defendants KIMBERLY LYNN BARRETT AKA KIMBERLY L. BARRETT; WEYERHAEUSER NR COMPANY; 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;
- b. A Stipulated Limited Judgment has been entered with regard to Defendant BANK OF AMERICA, N.A. ("Stipulating Defendants") (collectively Defaulted and Stipulating Defendants are referred to as "Defendants"), now therefore,

2.

IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

- 1 a. The real property to which this judgment relates is located and situated in Marion County,
 2 Oregon, and is commonly known as 17634 POWERS CREEK LP RD NE, SILVERTON,
 3 OR 97381 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and
 4 having APN/Parcel No. R38596 and R38597.
- 5 b. Plaintiff is entitled to enforce the note dated September 9, 2011 and made, delivered, and
 6 executed by KIMBERLY LYNN BARRETT to JPMorgan Chase Bank, N.A. in the amount
 7 of \$347,436.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession
 8 and by indorsement set forth on the Note.
- 9 c. A deed of trust was made, executed, and delivered by Defendant KIMBERLY LYNN
 10 BARRETT on or about September 9, 2011 (the "Deed of Trust"). The Deed of Trust was
 11 recorded on as Reel 3318 Page 231 in the official records of Marion County, Oregon. The
 12 Deed of Trust is a valid and perfected lien against all of the Property for and securing the
 13 Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the
 14 Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- 15 d. The Borrower failed to make the payment that was due for December 1, 2015 and has not
 16 cured the default. The amount of debt secured by the Deed of Trust that is now due and
 17 owing is comprised of the following amounts (the "Amount Due"):

18	a) Unpaid principal balance:	\$315,752.21
19	b) Prejudgment interest accruing from	\$58,345.28
20	11/1/2015 through 5/8/2019 and	
21	continuing until the entry of	
	judgment at the current Note rate of	
	5.25%:	
22	c) Additional amounts due under the	\$9,201.24
23	terms of the loan:	
24	d) Attorney fees and costs:	\$7,046.00
25	e) Prevailing party fee (ORS 20.190	\$85.00
26	(1)(a)):	
27	Total:	\$390,429.73

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

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

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

8 g. All right, title and interest in the Subject Property that Defendant Kimberly Lynn Barrett had
9 as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
10 Marion County Sheriff's Office in accordance with the process for sale upon execution, and
11 the proceeds of sale shall be applied:

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

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

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

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

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

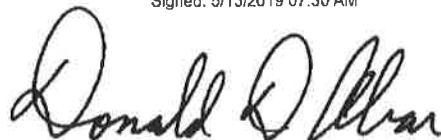
26 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
27 entitled to any further or other judgment, including a judgment for the deficiency.

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

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

- 6
- 7 1) Defendant BANK OF AMERICA N.A. may claim a junior interest in Subject
8 Property by virtue of a deed of trust recorded on 12/24/2007 as Reel 2902, Page 396
9 in the official records of Marion County, Oregon which made subordinate to the Deed
10 of Trust by virtue of a document recorded on 9/19/2011 as Reel No. 3318 Page 232 in
11 the official records of Marion County, Oregon.
- 12 2) Defendant WEYERHAEUSER NR COMPANY may claim a junior interest in
13 Subject Property by virtue of the effect of a timber deed recorded on 11/25/2013 as
14 Reel 3564, Page 8 in the official records of Marion County, Oregon.
- 15
- 16
- 17

Signed: 5/13/2019 07:30 AM



Circuit Court Judge Donald D. Abar

18

19

20

21

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

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

24 [] Each opposing party affected by this order or judgment has stipulated to the order or
25 judgment, as shown by each opposing party's signature on the document being
26 submitted.

27

28

1 [] Each opposing party affected by this order or judgment has approved the order or
2 judgment, as shown by signature on the document being submitted or by written
3 confirmation of approval sent to me.

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

5 [] No objection has been served on me.

6 [] I received objections that I could not resolve with the opposing party despite
7 reasonable efforts to do so. I have filed a copy of the objections I received and
8 indicated which objections remain unresolved.

9 [] After conferring about objections, _____ agreed to independently file
10 any remaining objection.

11 [X] The relief sought is against an opposing party who has been found in default.

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

13 [] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
14 otherwise.

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

18 [] Other: _____

19 Dated: 5/9/2019 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

BEGINNING AT AN IRON PIPE WHICH MARKS THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 10, TOWNSHIP 7 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, MARION COUNTY, OREGON; AND RUNNING THENCE NORTH 00 DEGREES 19' EAST ALONG THE WEST LINE OF SECTION 10, A DISTANCE OF 871.14 FEET TO THE CENTER OF COUNTY ROAD NO. 775; THENCE SOUTHEASTERLY ALONG THE CENTER OF SAID COUNTY ROAD, THE FOLLOWING COURSES AND DISTANCES: THENCE SOUTH 55 DEGREES 15' EAST 214.60 FEET; THENCE SOUTH 43 DEGREES 15' EAST 220.19 FEET; SOUTH 64 DEGREES 54' EAST 388.98 FEET; THENCE SOUTH 25 DEGREES 06' WEST 471.02 FEET TO AN IRON PIPE IN THE SOUTH LINE OF AFORESAID NORTHWEST ONE-QUARTER OF SECTION 10; THENCE SOUTH 89 DEGREES 20' WEST ALONG SAID SOUTH LINE, 466.42 FEET TO THE POINT OF BEGINNING .