

IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF CLATSOP

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9
MASTER PARTICIPATION TRUST,

Case No. 17CV30663

Plaintiff,

GENERAL JUDGMENT OF
FORECLOSURE

vs.

HOLLYANNE SUMMERS; CHRISTOPHER
BERNHARDT; UNKNOWN HEIRS OF DAVID J.
BERNHARDT; WAUNA CREDIT UNION S/B/M
TO WARRENTON FEDERAL CREDIT UNION;
RAY KLEIN, INC., DBA PROFESSIONAL CREDIT
SERVICE; WILLIAM C. RICE; CITBANK, N.A.,
SUCCESSOR IN INTEREST TO CITIBANK
SOUTH DAKOTA, N.A.; CAPITAL ONE BANK
(USA), N.A.; METRO AREA COLLECTION
SERVICE, INC.; EGP INVESTMENTS, LLC;
MIDLAND FUNDING LLC; CAVALRY SPV I LLC;
STATE OF OREGON; RICE RENTALS; M &S
RENTALS; PARTIES IN POSSESSION,

Defendants.

Defaults having been granted against Defendants, Hollyanne Summers a/k/a Holly Anne Hoover, Christopher J. Bernhardt, Unknown Heirs of David J. Bernhardt, Wauna Credit Union s/b/m to Warrenton Federal Credit Union, Ray Klein, Inc., dba Professional Credit Service, William C. Rice, Citbank, N.A., successor in interest to Citibank South Dakota, N.A, Capital One Bank (USA), N.A., Metro Area Collection Service, Inc., EGP Investments, LLC., Midland Funding LLC, Cavalry SPV I LLC, State of Oregon, Rice Rentals and M &S Rentals and Defendant(s), Parties in Possession, having been dismissed:

1 - GENERAL JUDGMENT OF FORECLOSURE
S&S No. 14-114488

SHAPIRO & SUTHERLAND, LLC
1499 SE Tech Center Place, Suite 255, Vancouver, WA 98683
Telephone (360)260-2253 (800)970-5647
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1 It is hereby

2 ORDERED AND ADJUDGED:

3 1. The real property to which this judgment relates (hereafter the "Property") is situated in
4 Clatsop County, Oregon is commonly known as 248 SE Anchor Avenue, Warrenton, OR
5 97146 and is legally described as follows:

6
7 Lot 4, Block 13, TOWN OF WARRENTON (also known as Warrenton Addition to
8 Astoria), in the City of Warrenton, Clatsop County, Oregon;

9 2. The Deed of Trust executed and delivered by Defendant, Holly Anne Summers and David
10 Bernhardt ("Borrower") on or about September 3, 2004 and recorded on September 13, 2004
11 as Instrument No. 200411042 in the official records of Clatsop County, Oregon, is a valid
12 and perfected lien against all of the Property for the amount of Plaintiff's judgment as
13 provided herein.

14 3. The Plaintiff is the holder of the original note dated September 3, 2004 and made by
15 Hollyanne Summers and David Bernhardt in the amount of \$95,000.00. A copy of the Note
16 was attached to the complaint as Exhibit "2". Plaintiff is the holder of the Note and the
17 beneficial interest in the Deed of Trust (together the "Loan").

18
19 4. The interest of each of the Defendant(s) subject to this Judgment and any successor in
20 interest in the Property is foreclosed and terminated excepting only any statutory right of
21 redemption as provided by Oregon law.

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- 1 5. The lien of the Plaintiff is superior to any interest, lien, or claim of the remaining
2 Defendants and shall remain in effect until issuance of a Sheriff's Deed. Upon Motion to
3 the Court and good cause shown, Plaintiff may move to rescind the foreclosure judgment
4 and to reinstate the Loan prior to the Sheriff's sale, returning the parties to their prejudgment
5 interests and priorities.
6
7 6. The Defendant(s) are not entitled to a homestead exception as against Plaintiff's judgment.
8
9 7. All of the rights, title and interest that Borrower(s) had as of the date of the Deed of Trust or
10 thereafter acquired in the subject Property, is hereby ordered to be sold by the Clatsop
11 County Sheriff's Office in accordance with the process for sale upon execution, and the
12 proceeds of sale shall be applied; first to the costs of sale; second to satisfaction of the
13 amounts awarded Plaintiff herein; with the surplus, if any, to the Defendants in the priority
14 as their interest may appear or to the clerk of the court to be distributed to such party of
15 parties as may establish their right thereto.
16
17 8. Plaintiff or any junior lienholders may become purchaser at the sale of the Property.
18
19 9. The purchaser at the sale is entitled to exclusive and immediate possession of the Property
20 from and after the date of the sale and is entitled to such remedies as are available at law or
21 in equity to secure possession.
22
23 10. The purchaser at the sale may apply to the Court for a writ of assistance if any Defendant or
24 any person holding possession under or through such Defendant(s) shall refuse to surrender
25 possession to the purchaser immediately on the purchaser's demand for possession.

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1 11. Under the terms of the Loan there is now due and owing to Plaintiff the following amounts:

2	Principal	\$82,647.08	
3	Prejudgment interest at 6.45% through October 11, 2017 (accruing thereafter until entry of judgment at \$14.60 per diem)		\$21,024.86
4	Late Charges	\$0.00	
5	Other Costs and fees (recoverable)	16,114.12	
6	Appraisal/BPO	\$196.50	
7	Property Inspections	\$641.00	
8	Property Preservation	\$7,338.75	
9	Escrow Advances	\$7,937.87	
10	Subtotal		\$98,761.20
11	Total plus Prejudgment Interest		\$119,786.06

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12 12. Attorney Fees and Costs are awarded to Plaintiff as follows:

13	Costs		\$4,450.68
14	Title Search Cost	\$398.00	
15	Filing Fee	\$531.00	
16	Lis Pendens Recording Fee	\$52.00	
17	Service by Publication	\$1,419.68	
18	Service Costs	\$1,775.00	
19	Prevailing Party Fee	\$275.00	
20	Attorney fees		\$3,050.00
21	Total		\$7,500.68

22 13. Post judgment interest on all amounts shall accrue from the date of judgment at the legal rate
23 of 9% per annum pursuant to ORS 82.010.

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1 14. This Judgment shall not create a personal lien or liability against Borrower except as is
2 customary or necessary to execute on such Judgment and for purposes of redemption. In no
3 event should it be construed as establishing personal liability for any persons whose debt has
4 been extinguished in bankruptcy or by an In Rem order granting relief from stay, but only to
5 foreclose the deed of trust mortgage. In the event the proceeds of sale are insufficient to pay
6 the amounts due to Plaintiff, no general execution shall be issued and Plaintiff shall not be
7 entitled to any further judgment, including a judgment for deficiency.
8

9 15. Execution may issue against the subject property for the aggregate amount found due
10 Plaintiff herein as detailed in Paragraphs 11 through 13 together (together "Amounts Due").
11 Plaintiff may credit bid up to the Amounts Due plus such additional amounts as provided by
12 ORS 18.936 or other applicable law.
13

14 16. If before sale such amount, including sheriff's fees for the execution, is tendered to the
15 Court and paid to the clerk, the execution, if issued, shall be recalled and the effect of the
16 judgment as to the amounts due shall be terminated.

17 17. The Clerk of the Court is hereby ordered to issue a Writ of Execution in Foreclosure for the
18 sale of the Property. Plaintiff may credit bid the amounts determined in Paragraphs 11
19 through 13 plus such additional amounts as provided in Paragraph 16 for purposes of ORS
20 18.936.
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1 18. This Court shall retain jurisdiction to enter such additional order, judgment or decree
2 necessary to enforce this judgment, the writ of execution or for the purchaser at the
3 foreclosure sale to obtain possession.
4
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9 Signed: 12/27/2017 11:28 AM

10 
11 **Circuit Court Judge Cindee S. Matyas**

12
13
14
15 **Certificate of Readiness under UTCR 5 100**

16 This proposed order or judgment is ready for judicial signature because:

- 17 1. Each party affected by this order or judgment has stipulated to the order or judgment, as shown
18 by each party's signature on the document being submitted.
19 2. Each party affected by this order or judgment has approved the order or judgment, as shown
20 by each party's signature on the document being submitted or by written confirmation of approval
21 sent to me.
22 3. I have served a copy of this order or judgment on each party entitled to service and:
23 a. No objection has been served on me.
24 b. I received objections that I could not resolve with a party despite reasonable efforts to do so. I
25 have filed a copy of the objections I received and indicated which objections remain unresolved.
26 c. After conferring about objections, [role and name of objecting party] agreed to independently
27 file any remaining objection.
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1 4. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
UTCR 8/1/16 5.5 (including out-of-cycle amendment of 5.100)

2 5. This is a proposed judgment that includes an award of punitive damages and notice has been
3 served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of
4 this rule.

6. Other: _____

5 Submitted by:
6 Attorneys for Plaintiff,
7 SHAPIRO & SUTHERLAND, LLC

8 By: _____

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