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JEFFERSON COUNTY, STATE OF OREGON
BY: [Signature] COUNTY CLERK

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SEP 07 2021

JEFFERSON COUNTY SHERIFF'S OFFICE
MADRAS, OR 97741

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

LOANCARE, LLC,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES
OF CAROL KARI BICART AKA CAROL
A BICART AKA CAROL KARI BICART
AKA CAROL A. KARI AKA CAROL
BICART AKA CAROL KARI AKA
CAROL KARI-BICART AKA CAROL
KARIBICART; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC. AS NOMINEE FOR
HOMECOMING FINANCIAL LLC F/K/A
HOMECOMINGS; ANDREA L.
SCHMIDT, AS SUCCESSOR TRUSTEE
TO THE CAROL A. BICART
REVOCABLE LIVING TRUST
AGREEMENT OF FEBRUARY 17, 2017;
KENNETH BICART; OCCUPANTS OF
THE PROPERTY

Defendants.

Case No.: 19CV47152

WRIT OF EXECUTION IN
FORECLOSURE

TO THE JEFFERSON COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on May 17, 2021. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

1 LOANCARE, LLC
2 c/o Jeremy Clifford
3 Attorney for Plaintiff

4 McCarthy & Holthus, LLP
5 920 SW 3rd Ave, 1st Floor
6 Portland, OR 97204

7 With the adjudicated amount due of Total judgment award from Judgment \$178,482.65, Pre
8 Judgment interest from 5/11/2021 to 5/17/2021 at \$107.46 and post judgment interest at the
9 statutory rate of 9.0% per annum from May 18, 2021 to 6/30/2021 in the amount of \$1,893.54,
10 and continuing with a per diem of \$44.04, currently totaling \$180,483.65.

11 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON,** you are
12 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
13 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
14 about October 11, 2013, the date of the Deed of Trust, and also the interest that the Defendant
15 had thereafter, in the real property described as follows:

16 THAT PORTION OF THE WEST ONE-HALF OF THE NORTHEAST ONE-
17 QUARTER (W 1/2 NE 1/4) OF SECTION 14, TOWNSHIP 11 SOUTH, RANGE
18 12 EAST OF THE WILLAMETTE MERIDIAN, JEFFERSON COUNTY,
19 OREGON, LYING WEST OF THE PORTLAND GENERAL ELECTRIC
20 EASEMENT AND RIGHT OF WAY.

21 and commonly known as: 1051 SW Mtn View Dr, Madras, OR 97741 and having APN/Parcel
22 No. 111200-00-00209.

23 Sale of the property is to satisfy the sum listed above, plus the costs incurred in
24 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under
25 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.
26 You are to make the return within 60 days after you receive this Writ. Should the sale be
27 continued, the writ may be automatically extended for 30 days.
28

DATED: ___ day of _____, 20__.

Title _____
By: *Amy Bonkosky*
Amy Bonkosky, Trial Court Administrator

Dated: June 28, 2021, and submitted by:

McCarthy & Holthus, LLP

s/ Jeremy Clifford

Jeremy Clifford OSB No. 142987

920 SW 3rd Ave, 1st Floor

Portland, OR 97204

Phone: (971) 201-3200

Fax: (971) 201-3202

jclifford@mccarthyholthus.com

Of Attorneys for Plaintiff

Exhibit "1"

THAT PORTION OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W 1/2 NE 1/4) OF SECTION 14, TOWNSHIP 11 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, JEFFERSON COUNTY, OREGON, LYING WEST OF THE PORTLAND GENERAL ELECTRIC EASEMENT AND RIGHT OF WAY.

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

LOANCARE, LLC,

Plaintiff,

vs.

Case No.: 19CV47152

GENERAL JUDGMENT OF
FORECLOSURE

THE UNKNOWN HEIRS AND DEVISEES
OF CAROL KARI BICART AKA CAROL
A BICART AKA CAROL KARI BICART
AKA CAROL A. KARI AKA CAROL
BICART AKA CAROL KARI AKA
CAROL KARI-BICART AKA CAROL
KARIBICART; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC. AS NOMINEE FOR
HOMECOMING FINANCIAL LLC F/K/A
HOMECOMINGS; ANDREA L.
SCHMIDT, AS SUCCESSOR TRUSTEE
TO THE CAROL A. BICART
REVOCABLE LIVING TRUST
AGREEMENT OF FEBRUARY 17, 2017;
KENNETH BICART; OCCUPANTS OF
THE PROPERTY,

Defendants.

1.

THIS MATTER came before the Court on Plaintiff's motion. Defendants THE UNKNOWN HEIRS AND DEVISEES OF CAROL KARI BICART AKA CAROL A BICART AKA CAROL KARI BICART AKA CAROL A. KARI AKA CAROL BICART AKA CAROL KARI AKA CAROL KARI-BICART AKA CAROL KARIBICART; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR HOMECOMING FINANCIAL LLC F/K/A HOMECOMINGS; ANDREA L. SCHMIDT, AS SUCCESSOR

1 TRUSTEE TO THE CAROL A. BICART REVOCABLE LIVING TRUST AGREEMENT OF
2 FEBRUARY 17, 2017; KENNETH BICART; and OCCUPANTS OF THE PROPERTY
3 (“Defendants”) were duly served with process and failed to appear; the default has been entered
4 against Defendants, and it appearing that Defendants are not incapacitated, protected persons,
5 respondents as defined in ORS 125.005, minors, or in the military service of the United States;

6 2.

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

- 8 a. The real property to which this judgment relates is located and situated in Jefferson County,
9 Oregon, and is commonly known as 1051 SW Mountain View Dr, Madras, OR 97741 (the
10 “Subject Property”), legally described as shown in the attached *Exhibit 1*, and having
11 APN/Parcel No. 111200-00-00209.
- 12 b. Plaintiff is entitled to enforce the note dated October 11, 2013 and made, delivered, and
13 executed by CAROL KARI BICART AKA CAROL A BICART AKA CAROL KARI
14 BICART AKA CAROL A. KARI AKA CAROL BICART AKA CAROL KARI AKA
15 CAROL KARI-BICART AKA CAROL KARIBICART to Green Tree Servicing LLC in the
16 amount of \$143,933.00 (the “Note”). The Note was transferred to Plaintiff by delivery of
17 possession and by indorsement set forth on the Note.
- 18 c. A deed of trust was made, executed, and delivered by CAROL KARI BICART AKA
19 CAROL A BICART AKA CAROL KARI BICART AKA CAROL A. KARI AKA CAROL
20 BICART AKA CAROL KARI AKA CAROL KARI-BICART AKA CAROL
21 KARIBICART on or about October 11, 2013 (the “Deed of Trust”). The Deed of Trust was
22 recorded on October 24, 2013 as Instrument No. 2013-3686 in the official records of
23 Jefferson County, Oregon. The Deed of Trust is a valid and perfected lien against all of the
24 Property for and securing the Amount Due. The lien of the Plaintiff is superior to any
25 interest, lien, or claim of the Defendants and shall remain in effect until issuance of a
26 Sheriff’s Deed.

1 d. The Borrower failed to make the payment that was due for February 1, 2018 and has not
2 cured the default. The amount of debt secured by the Deed of Trust that is now due and
3 owing is comprised of the following amounts (the "Amount Due"):

- | | | |
|----|---------------------------------------|---------------------|
| 4 | a) Unpaid principal balance: | \$131,016.07 |
| 5 | b) Prejudgment interest accruing from | \$21,956.52 |
| 6 | 1/1/2018 through 5/10/19/2021 and | |
| 7 | continuing until the entry of | |
| | judgment at the current Note rate of | |
| | 4.99%: | |
| 8 | c) Additional amounts due under the | \$18,681.18 |
| 9 | terms of the loan: | |
| 10 | d) Attorney fees and costs: | \$6,708.00 |
| 11 | e) Prevailing party fee (ORS 20.190 | \$85.00 |
| | (1)(a)): | |
| 12 | Total: | \$178,482.65 |

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

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

19 f. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the
20 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a
21 28 U.S.C. § 2410(c) one-year redemption right in this case.

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

23 h. All right, title and interest in the Subject Property that Defendant THE UNKNOWN HEIRS
24 AND DEVISEES OF CAROL KARI BICART AKA CAROL A BICART AKA CAROL
25 KARI BICART AKA CAROL A. KARI AKA CAROL BICART AKA CAROL KARI AKA
26 CAROL KARI-BICART AKA CAROL KARIBICART had as of the date of the Deed of
27

1 Trust or thereafter acquired is hereby ordered to be sold by the Jefferson County Sheriff's
2 Office in accordance with the process for sale upon execution, and the proceeds of sale shall
3 be applied:

- 4 1) First, to the costs of sale not incurred by Plaintiff;
- 5 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
6 entry of judgment through the date of the sale and any incurred costs of sale;
- 7 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
8 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
9 such party or parties as they may establish their right thereto.

10 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
11 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
12 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

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

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

- 25 1) Defendants MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS
26 NOMINEE FOR HOMECOMING FINANCIAL LLC F/K/A HOMECOMINGS may

1 claim an interest in Subject Property by virtue of a deed of trust recorded 4/23/2008
2 as Instrument No. 2008-001558 in the official records of Jefferson County, Oregon.

3 2) Defendant Andrea L. Schmidt, as Successor Trustee to the Carol A. Bicart Revocable
4 Living Trust Agreement of February 17, 2017 may claim a junior interest in Subject
5 Property by virtue of a Bargain Sale Deed recorded on 2/17/2017 as Instrument No.
6 2017-0594 in the official records of Jefferson County, Oregon.

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10 Signed: 5/17/2021 09:04 AM

11 

12
13 **Daina A. Vitolins, Circuit Court Judge**

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

15 On 5/12/2021 a copy of the Motion For Entry Of Judgment, Declaration Of Attorney
16 Fees And Costs For Plaintiff, Declaration Of Amounts Due, Proposed Judgment Of Foreclosure
was:

17 Mailed to:

18 Trustee for Cenlar FSB
19 c/o Nichole Glowin
17100 Gillette Ave
20 Irvine, CA 92614

21 by placing the executed documents in the firm's outbox for mailing.

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

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

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

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

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- No objection has been served on me.
- I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
- After conferring about objections, _____ agreed to independently file any remaining objection.

- 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.
- 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 (4) of this rule.
- Other: _____

Dated: May 12, 2021, and submitted by:

McCarthy & Holthus, LLP

s/ Jeremy Clifford
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Portland, OR 97204
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Fax: (971) 201-3202
jclifford@mccarthyholthus.com
Of Attorneys for Plaintiff

Exhibit "1"

THAT PORTION OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W 1/2 NE 1/4) OF SECTION 14, TOWNSHIP 11 SOUTH, RANGE 12 EAST OF THE WILLAMETTE MERIDIAN, JEFFERSON COUNTY, OREGON, LYING WEST OF THE PORTLAND GENERAL ELECTRIC EASEMENT AND RIGHT OF WAY.