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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF CLACKAMAS

6 FEDERAL NATIONAL MORTGAGE
7 ASSOCIATION ("FANNIE MAE"), A
8 CORPORATION ORGANIZED AND
9 EXISTING UNDER THE LAWS OF THE
10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 vs.

13 DIEDRIE A. FITCH AKA DIEDRIE
14 ANNE FITCH; WALTER C. FITCH AKA
15 WALTER CURWIN FITCH; TURNING
16 LEAF HOMES, LLC; OCCUPANTS OF
17 THE PROPERTY,

18 Defendants.

Case No.: 15CV34832

WRIT OF EXECUTION IN
FORECLOSURE

19 **TO THE CLACKAMAS COUNTY SHERIFF:**

20 A Judgment of Foreclosure was entered and docketed in this case on December 13, 2018.

21 A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the

22 Judgment Creditor:

23 FEDERAL NATIONAL MORTGAGE
24 ASSOCIATION ("FANNIE MAE"), A
25 CORPORATION ORGANIZED AND
26 EXISTING UNDER THE LAWS OF THE
27 UNITED STATES OF AMERICA
28 c/o Michael Scott
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$320,568.49, plus pre judgment interest from
10/10/2018 to 12/13/2018 at the per diem rate of \$34.22 totaling, \$2,190.08, plus post judgment

1 interest at the statutory rate of 9.0% per annum from 12/14/2018 to 4/13/2022 in the amount of
2 \$98,848.86, and continuing with a per diem of \$79.58, totaling \$419,607.43.

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 September 13, 2010, the date of the Deed of Trust, and also the interest that the Defendant
7 had thereafter, in the real property described as follows:

8 Attached Exhibit 1, APN/Parcel # 00532249, and commonly known as (street address):
9 635 E Fairfield St, Gladstone, OR 97027-1712.

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

15 Dated: May 4, 2022.

16
17 COURT CLERK HAS NOT VERIFIED FIGURES IN THIS WRIT.
18 IF YOU HAVE ANY QUESTIONS REGARDING THIS WRIT,
19 PLEASE CONTACT YOUR LEGAL COUNSEL, THE ISSUING
20 ATTORNEY OR THE ISSUING COMPANY. DEBTOR MAY CONTEST
21 THIS WRIT BY FILING A CLAIM OF EXEMPTION.

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22 Court Administrator relies on the information
23 provided by the person seeking issuance of
24 this writ of execution and is not liable for any
25 errors or omissions in the information

1 Dated April 14, 2022, and submitted by:

2 McCarthy & Holthus, LLP

3 

4 Michael Scott OSB 973947

5 920 SW 3rd Ave, 1st Floor

6 Portland, OR 97204

7 Phone: (971) 201-3200

8 Fax: (971) 201-3202

9 MScott@mccarthyholthus.com

10 Of Attorneys for Plaintiff

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

FEDERAL NATIONAL MORTGAGE
ASSOCIATION ("FANNIE MAE"), A
CORPORATION ORGANIZED AND
EXISTING UNDER THE LAWS OF THE
UNITED STATES OF AMERICA,

Plaintiff,

vs.

DIEDRIE A. FITCH AKA DIEDRIE
ANNE FITCH, WALTER C. FITCH AKA
WALTER CURWIN FITCH; TURNING
LEAF HOMES, LLC; OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 15CV34832

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

- a. Defendants DIEDRIE A. FITCH AKA DIEDRIE ANNE FITCH, WALTER C. FITCH AKA WALTER CURWIN FITCH, and 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. An Order granting Summary Judgment has been entered with regard to Defendant

1 TURNING LEAF HOMES, LLC, now therefore,

2 2.

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

- 4 a. The real property to which this judgment relates is located and situated in Clackamas County,
5 Oregon, and is commonly known as 635 E Fairfield St, Gladstone, OR 97027-1712 (the
6 "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having
7 APN/Parcel No. 00532249.
- 8 b. Plaintiff is entitled to enforce the note dated September 13, 2010 and made, delivered, and
9 executed by Diedrie C. Fitch and Walter A. Fitch to Bank of America, N.A. in the amount of
10 \$238,300.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession
11 and by indorsement set forth on the Note.
- 12 c. A deed of trust was made, executed, and delivered by Defendants Diedrie A. Fitch and
13 Walter C. Fitch on or about September 13, 2010 (the "Deed of Trust"). The Deed of Trust
14 was recorded on September 22, 2010 as Instrument No. 2010-059309 in the official records
15 of Clackamas County, Oregon. The Deed of Trust is a valid and perfected lien against all of
16 the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any
17 interest, lien, or claim of the Defendants and shall remain in effect until issuance of a
18 Sheriff's Deed.
- 19 d. The Borrower failed to make the payment that was due for February 1, 2014 and has not
20 cured the default. The amount of debt secured by the Deed of Trust that is now due and
21 owing is comprised of the following amounts (the "Amount Due"):

- 22 a) Unpaid principal balance: \$227,126.26
- 23
- 24 b) Prejudgment interest accruing from \$59,569.42
25 1/1/2014 through 10/9/2018 and
26 continuing until the entry of
27 judgment at the current Note rate of
28 5.50%:
- c) Additional amounts due under the \$25,469.99
terms of the loan:

1	d) Attorney fees and costs:	\$8,317.82
2		
3	e) Prevailing party fee (ORS 20.190 (1)(a)):	\$85.00
4	Total:	\$320,568.49

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

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

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

12 g. All right, title and interest in the Subject Property that Defendants Diedrie A. Fitch, Walter
13 C. Fitch had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be
14 sold by the Clackamas County Sheriff's Office in accordance with the process for sale upon
15 execution, and the proceeds of sale shall be applied:

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

22 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
23 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
24 the date of entry of judgment through the date of the sale and any incurred costs of sale.

25 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
26 Property from and after the date of the sale and is entitled to such remedies as are available at
27

1 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
2 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
3 possession to the purchaser immediately upon the purchaser's demand for possession.

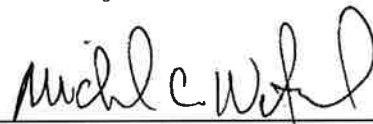
4 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
5 entitled to any further or other judgment, including a judgment for the deficiency.

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

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

11 A. Defendant TURNING LEAF HOMES, LLC may claim a junior interest in Subject
12 Property by virtue of a vesting interest by way of a bargain and sale deed recorded on
13 March 3, 2015 as Instrument No. 2015-018403 in the official records of Clackamas
14 County, Oregon.

Signed: 12/5/2018 09:37 AM



Circuit Court Judge Michael C. Wetzel

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

22 On 10/9/2018 a copy of the Motion For Entry Of Judgment, Declaration Of Attorney
23 Fees And Costs For Plaintiff, Declaration Of Amounts Due, Proposed Judgment Of Foreclosure
was:

24 Mailed to:

25 Turning Leaf Homes, LLC
26 Tracey Baron
27 1701 Oak Shore Lane
Milwaukie, OR 97267

1 not less than 7 days prior to submission to the court with a notice of the time period to
2 object.

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

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

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

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

11 No objection has been served on me.

12 I received objections that I could not resolve with the opposing party despite
13 reasonable efforts to do so. I have filed a copy of the objections I received and
14 indicated which objections remain unresolved.

15 After conferring about objections, _____ agreed to independently file
16 any remaining objection.

17 The relief sought is against an opposing party who has been found in default.

18 An order of default is being requested with this proposed judgment.

19 Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
20 otherwise.

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

24 Other: _____

25 Dated: 10/24/2018 and submitted by:

26 **McCarthy & Holthus, LLP**

27 s/ Andreanna C. Smith

28 Andreanna Smith OSB No. 131336

920 SW 3rd Ave, 1st Floor

Portland, OR 97204

Phone: (971) 201-3200

Fax: (971) 201-3202

ansmith@mccarthyholthus.com

Of Attorneys for Plaintiff

EXHIBIT “1”

Legal Description

Lots 5 and 6, Block 84, GLADSTONE, in the City of Gladstone, County of Clackamas and State of Oregon.