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

U.S. BANK NATIONAL ASSOCIATION, AS
SUCCESSOR TRUSTEE TO LASALLE
BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR BEAR STEARNS ASSET
BACKED SECURITIES I TRUST, ASSET-
BACKED CERTIFICATES, SERIES 2007-
HE4,

Case No.: 19CV28918

WRIT OF EXECUTION IN
FORECLOSURE

Plaintiff,

vs.

UNKNOWN HEIRS AND DEVISEES OF
CHRISTINA L. DISHAW; UNKNOWN
HEIRS AND DEVISEES OF LINDA SUE
FOLSOM, DISCOVER BANK, OCCUPANTS
OF THE PROPERTY,

Defendants.

TO THE LINN COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on April 19, 2022. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

U.S. BANK NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO LASALLE
BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR BEAR STEARNS ASSET
BACKED SECURITIES I TRUST, ASSET-BACKED CERTIFICATES, SERIES 2007-
HE4

c/o Michael Scott
Attorney for Plaintiff

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

1 With the adjudicated amount due of \$166,018.50, plus prejudgment interest in the amount of
2 \$66.00 and plus post judgment interest at the statutory rate of 9.0% per annum from April 19,
3 2022 to 5/18/2022 in the amount of \$ 1,187.15 and continuing with a per diem of \$40.94,
4 currently totaling \$167,271.65.

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 January 31, 2007, the date of the Deed of Trust, and also the interest that the Defendant
9 had thereafter, in the real property described as follows:

10 BEGINNING AT A POINT IN THE CENTER OF THE COUNTRY ROAD
11 WHICH IS 3801 FEET DISTANT AND SOUTH 16 EAST 307.8 FEET
12 DISTANT FROM THE NORTHEAST CORNER OF THE DLXC OF MORGAN
13 KEES AND WIFE, BEING NOT NO. 2305 AND CLAIM NO. 43, TOWNSHIP
14 12 SOUTH, RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, LINN
15 COUNTY, OREGON, SAID BEGINNING POINT BEING THE NORTHWEST
16 CORNER OF THE PREMISES DESCRIBED IN DEED FROM C.F. MOIST
17 AND MARY L. MOIST HIS WIFE, TO HARRY HALL, RECORDED AT
18 PAGE 65, VOLUME 105, DEED RECORDS FOR LIN COUNTY, OREGON,
19 RUNNING THENCE EAST ALONG THE NORTH LINE OF SAID PREMISES
20 205 FEET, THENCE SOUTH 87 FEET TO THE SOUTH LINE OF SAID
21 PREMISES; THEN WEST ALONG THE SOUTH LINE OF SAID PREMISES
22 183 FEET TO THE CENTER OF THE COUNTY ROAD, THENCE
23 FOLLOWING THE CENTER OF THE COUNTY ROAD, IN THE
24 NORTHWESTERLY DIRECTION, 91 FEET TO THE PLACE OF
25 BEGINNING.

18 and commonly known as: 33247 Santiam Highway, Lebanon, OR 97355.

19 Sale of the property is to satisfy the sum listed above, plus the costs incurred in
20 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under
21 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.
22 You are to make the return within 60 days after you receive this Writ. Should the sale be
23 continued, the writ may be automatically extended for 30 days.
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1 DATED: 17 day of May, 2022 .

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2 _____
3 Title Amber Enyart, Administrative Authority

4 By: _____

5
6 Dated: _____ and submitted by:

7 McCarthy & Holthus, LLP

8 E-Sign

9 _ John Thomas OSB No. 024691

10 _ Michael Scott OSB No. 973947

11 920 SW 3rd Ave, 1st Floor

12 Portland, OR 97204

13 Phone: (971) 201-3200

14 Fax: (971) 201-3202

15 mscott@mccarthyholthus.com

16 Of Attorneys for Plaintiff

Exhibit "1"

Beginning at a point in the center of the County Road which is West 3801 feet distant and South 16° East 307.8 feet distant from the Northeast corner of the DLXC of Morgan Kees and wife, being Not. No. 2305, and Claim No. 43, Township 12 South, Range 2 West of the Willamette Meridian, Linn County, Oregon, said beginning point being the Northwest corner of the premises described in deed from C.F. Moist and Mary L. Moist, his wife, to Harry Hall, recorded at page 65, volume 105, Deed Records for Linn county, Oregon; running thence East along the north line of said premises 205 feet; thence South 87 feet to the South line of said premises; then West along the South line of said premises 183 feet to the center of the County Road; thence following the center of the County Road, in a Northwesterly direction, 91 feet to the place of beginning.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
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FOLSOM; DISCOVER BANK;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 19CV28918

GENERAL JUDGMENT OF
FORECLOSURE AND DECLARATORY
RELIEF

1.

THIS MATTER came before the Court on Plaintiff's motion. Defendants UNKNOWN HEIRS AND DEVISEES OF CHRISTINA L. DISHAW; UNKNOWN HEIRS AND DEVISEES OF LINDA SUE FOLSOM; DISCOVER BANK; 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;

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 33247 Santiam Highway, Lebanon, OR 97355 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R170098.
- b. Plaintiff is entitled to enforce the note dated January 31, 2007 and made, delivered, and executed by CHRISTINA L. DISHAW to Quick Loan Funding, a California Corporation in the amount of \$97,600.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.
- c. A deed of trust was made, executed, and delivered by CHRISTINA L. DISHAW on or about January 31, 2007 (the "Deed of Trust"). The Deed of Trust was recorded on February 15, 2007 as Instrument No. 2007-03900 in the official records of Linn County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- d. Granting Plaintiff's request for a judicial declaration that the Release, recorded 8/8/2018, as instrument number 2018-14128, is void and fraudulent.
- e. Granting judgment to Plaintiff adjudging that Plaintiff's interest is senior to that of all Defendants.
- f. Granting any other further relief as the court may deem just and equitable.
- g. The Borrower failed to make the payment that was due for September 1, 2016 and has not cured the default. The amount of debt secured by the Deed of Trust that is now due and owing is comprised of the following amounts (the "Amount Due"):

- a) Unpaid principal balance: \$90,353.88
- b) Deferred principal balance: \$1,896.65
- c) Prejudgment interest accruing \$23,948.09*

1 through 4/12/2022 and continuing
2 until the entry of judgment at the
3 current Note rate of 4.84000%:

4	d) Additional amounts due under the terms of the loan:	\$40,735.25
5	e) Attorney fees and costs:	\$8,999.63
6	f) Prevailing party fee (ORS 20.190 (1)(a)):	\$85.00
7	Total:	\$166,018.50

8 *Interest calculation from paragraph 7 of Plaintiff's Declaration of Indebtedness was recalculated to
9 4/12/2022 using the per diem interest of \$11.00 per the Declaration.

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

13 h. The interest of the Defendants and any successor in interest in the Subject Property is
14 foreclosed and terminated excepting only any statutory right of redemption as provided by
15 Oregon law.

16 i. The Defendant is not entitled to a homestead exception as against Plaintiff's judgment.

17 j. All right, title and interest in the Subject Property that Defendant CHRISTINA L. DISHAW
18 had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by
19 the Linn County Sheriff's Office in accordance with the process for sale upon execution, and
20 the proceeds of sale shall be applied:

- 21 1) First, to the costs of sale not incurred by Plaintiff;
 - 22 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
23 entry of judgment through the date of the sale and any incurred costs of sale;
 - 24 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
25 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
26 such party or parties as they may establish their right thereto.
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- 1 k. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
2 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
3 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 4 l. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
5 Property from and after the date of the sale and is entitled to such remedies as are available at
6 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
7 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
8 possession to the purchaser immediately upon the purchaser's demand for possession.
- 9 m. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
10 entitled to any further or other judgment, including a judgment for the deficiency.
- 11 n. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
12 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
13 terminated.
- 14 o. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
15 Deed of Trust are as follows:
- 16 1) Defendant Discover Bank may claim a junior interest in Subject Property by virtue of
17 a judgment entered on 06/17/2009 as Case No. 091661 in the circuit courts of Linn
18 County, Oregon.

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25 Circuit Court Judge, Thomas A. McHill
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1 I hereby certify that the requirements of UTCR 5.100 have been satisfied.

2
3 This proposed General Judgment Of Foreclosure and Declaratory Relief 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
submitted.

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

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

9 No objection has been served on me.

10 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.

11 After conferring about objections, _____ agreed to independently file
12 any remaining objection.

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

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

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

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

18 Other: _____

19
20 Dated April 13, 2022 and submitted by:

21 **McCarthy & Holthus, LLP**

22 *s/ Michael Scott*

23 Michael Scott OSB No. 973947

24 920 SW 3rd Ave, 1st Floor

25 Portland, OR 97204

26 Phone: (971) 201-3200

27 Fax: (971) 201-3202

28 mscott@mccarthyholthus.com

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