

8-29 '22 11:35

CERTIFIED TO BE A TRUE AND COMPLETE COPY OF THE ORIGINAL HEREOF.

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

UMPQUA BANK, Assignee of Mortgage
Electronic Registration Systems, Inc. (MERS);

Plaintiff,

v.

DOE 1 and DOE 2, being the occupants of or parties in possession or claiming any right to possession of the Real Property commonly known as 5250 Trade Ave., Bay City, OR 97107; DOE 3 and DOE 4, being the unknown heirs and devisees of Kenneth H. Upshaw and also all other persons or parties unknown claiming any right, title, lien, or interest in the property described in the Complaint herein; ANGELA NOEL MCDANIEL; JENNI SU STINNETT; BENJAMIN EDWARD UPSHAW; JEANINE CECELIA UPSHAW; RONALD L. SPERRY III, as Personal Representative of the Estate of Kenneth H. Upshaw; and STATE OF OREGON DEPARTMENT OF REVENUE;

Defendants.

Case No. 22CV07523

WRIT OF EXECUTION
(SPECIFIC REAL PROPERTY)

TO THE SHERIFF OF TILLAMOOK COUNTY:

WHEREAS, on July 25, 2022, in the above-entitled court, a Stipulated General Judgment was entered in the above matter, a true copy of which is attached to this Writ as **Exhibit 1**, in which Plaintiff is Judgment Creditor and Defendants are Judgment Debtors,

1 AND WHEREAS the Stipulated General Judgment requires the Sheriff to sell the
2 specific real property described below,

3 NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby
4 commanded to sell, in the manner prescribed by law for the sale of real property upon execution,
5 subject to redemption, all of the interest which the Defendants had on July 25, 2022, or thereafter
6 and may now have in the real property described below to satisfy the Judgment and the costs of
7 this Writ, making due return after you receive this Writ pursuant to ORS 18.872. The property
8 which is to be sold is as follows:

9 Lots 12 and 13, Block 71, PACIFIC ADDITION TO BAY CITY, in the
10 City of Bay City, County of Tillamook and State of Oregon.

11 and commonly known as 5250 Trade Ave., Bay City, OR 97107.

12 The amounts owing on the money awards in the Judgment as of July 25, 2022, were as
13 follows:

14 a. The principal amount of \$210,189.45, plus accrued interest to July 31, 2022,
15 of \$30,686.26, plus accrued late charges of \$1,572.09, plus accruing interest at the rate of
16 3.875% per annum per the terms of the Note from August 1, 2022, until date of entry of
17 judgment (July 25, 2022), plus escrow advance of \$19,333.89, plus accruing late charges, fees,
18 expenses, and advances; plus

19 b. Plaintiff's reasonable pre-judgment attorney fees for 2019 through 2022 of
20 \$21,107.00; plus

21 c. Plaintiff's costs and disbursements for 2019 through 2022 of \$6,830.62; plus

22 d. Plaintiff's anticipated fees and costs for sheriff's sale of \$2,600.00; plus

23 e. Plaintiff's reasonable expense of obtaining a judicial foreclosure guarantee in
24 the amount of \$728.00; plus

25 f. Interest on the sum of the amounts in subparagraphs a. through e., above, at
26 the rate of 9% per annum from the date of entry of judgment (July 25, 2022) until paid.

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The total amount owing on the money award as of August 3, 2022, is \$293,697.65.

The per diem rate is \$72.42 per day from August 3, 2022, until paid.

The mailing address for the judgment creditor is: c/o Nancy K. Cary, at Hershner Hunter, LLP, P.O. Box 1475, Eugene, OR 97440.

8/9/2022 9:08:32 AM

Mari Gerke Travino
Circuit Court Judge Mari Gerke Travino

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

UMPQUA BANK, Assignee of Mortgage
Electronic Registration Systems, Inc. (MERS);

Plaintiff,

v.

DOE 1 and DOE 2, being the occupants of or
parties in possession or claiming any right to
possession of the Real Property commonly known
as 5250 Trade Ave., Bay City, OR 97107; DOE 3
and DOE 4, being the unknown heirs and
devisees of Kenneth H. Upshaw and also all other
persons or parties unknown claiming any right,
title, lien, or interest in the property described in
the Complaint herein; ANGELA NOEL
MCDANIEL; JENNI SU STINNETT;
BENJAMIN EDWARD UPSHAW; JEANINE
CECELIA UPSHAW; RONALD L. SPERRY III,
as Personal Representative of the Estate of
Kenneth H. Upshaw; and STATE OF OREGON
DEPARTMENT OF REVENUE;

Defendants.

Case No. 22CV07523

STIPULATED GENERAL
JUDGMENT

Plaintiff and Defendant State of Oregon, Department of Revenue (“DOR”) hereby
stipulate as follows:

1. It appearing that Defendants Doe 3, Doe 4, Angela Noel McDaniel, Jenni Su
Stinnett, Benjamin Edward Upshaw, Jeanine Cecelia Upshaw, and Ronald L. Sperry III, as
Personal Representative of the Estate of Kenneth H. Upshaw, having previously had orders of

1 default entered against them by this Court; and it further appearing that Defendants Doe 1 and
2 Doe 2 were dismissed by judgment of this Court; and it further appearing that Defendant DOR
3 filed an answer in this proceeding; and it further appearing that Defendant DOR has stipulated to
4 the terms of this Judgment in consideration of Plaintiff having agreed not to seek a money
5 judgment against Defendant DOR and to proceed with the foreclosure of the real property which
6 is the subject of this proceeding; and that the Court finds that there is no just reason for delay in
7 the entry of the general judgment now, therefore,

8 IT IS ADJUDGED that:

9 1. Plaintiff shall have judgment against Defendants Doe 3, Doe 4, Angela Noel
10 McDaniel, Jenni Su Stinnett, Benjamin Edward Upshaw, Jeanine Cecelia Upshaw, State of
11 Oregon Department of Revenue, and Ronald L. Sperry III, as Personal Representative of the
12 Estate of Kenneth H. Upshaw, as follows:

13 a. Foreclosure of Deed of Trust. The deed of trust given by Kenneth H.
14 Upshaw, deceased, to secure payment of the Promissory Note described in Plaintiff's Complaint,
15 which deed of trust was recorded in the Official Records of Tillamook County, Oregon on
16 October 11, 2017, as Recording No. 2017-06134 (the "Deed of Trust"), is a valid and subsisting
17 lien on all of the real property ("Real Property") described as:

18 Lots 12 and 13, Block 71, PACIFIC ADDITION TO BAY CITY, in the
19 City of Bay City, County of Tillamook and State of Oregon.

20 and commonly known as 5250 Trade Ave., Bay City, OR 97107 (the "Real Property") is superior
21 to any interest, lien, or claim of the Defendants, or any of them, in an amount equal to the
22 following judgment amount ("Judgment Amount"):

- 23 (1) The principal amount of \$210,189.45; plus
24 (2) Accrued interest to July 31, 2022, of \$30,686.26; plus
25 (3) Accruing interest at the rate of 3.875% per annum from August 1,
26

1 2022, to the date of entry of judgment; plus

2 (4) Accrued late charges in the amount of \$1,572.09; plus

3 (5) Escrow advances of \$19,333.89; plus

4 (6) Anticipated fees and costs for sheriff's sale of \$2,600.00; plus

5 (7) Plaintiff's reasonable expense of obtaining a judicial foreclosure
6 guarantee in the amount of \$728.00; plus

7 (8) Plaintiff's reasonable attorney's fees in the amount of \$21,107.00
8 for 2019 through 2022; plus

9 (9) Plaintiff's reasonable costs and disbursements in the amount of
10 \$6,830.62 for 2019 through 2022; plus

11 (10) Interest on the sum of the amounts in subparagraphs (1). through
12 (9) above at the rate of 9% per annum from the date of entry of this
13 judgment, until paid.

14 b. Foreclosure. The lien of the Deed of Trust is hereby foreclosed and the
15 Real Property shall be sold by the Sheriff of Tillamook County in the manner provided by law.

16 c. Defendants. The interests of all defendants are hereby foreclosed and the
17 defendants no longer have any interest in the Real Property except any statutory rights of
18 redemption after the sheriff's sale. Defendant DOR has a lien in the Real Property, under that
19 certain State Revenue Tax Warrant #L1024994176 recorded in the Official Records of
20 Tillamook County on October 10, 2018, as Recording No. 2018-005964.

21 d. Proceeds. The proceeds of the sale shall be applied first to satisfy the
22 costs of sale; then toward the satisfaction of the foregoing Judgment Amount then towards
23 satisfaction of the State Revenue Tax Warrant, with any surplus thereafter to the clerk of court
24 for distribution by further order of the court.

25 e. Effect on Defendants. Except as otherwise set out in this Stipulated
26 Judgment all rights, titles or claims of defendants or persons claiming by, through or under them,

1 in or to the Real Property, are inferior and subordinate to Plaintiff's lien and all such rights of
2 defendants are forever foreclosed.

3 f. Bidders and Possession. Plaintiff or any other party may become the
4 purchaser at the sale. The purchaser shall become entitled to exclusive possession of the Real
5 Property from the date of the sheriff's sale, and shall be entitled to such remedies as are available
6 to secure possession, including a writ of assistance, if defendants or any other person shall refuse
7 to surrender possession.

8 g. Redemption. Each defendant and all persons claiming through or under
9 them either as purchasers, encumbrancers, or otherwise are forever foreclosed of all interest or
10 claim in the Real Property except any statutory right of redemption that such defendants may
11 have in the Real Property or any statutory right to excess proceeds.

12 The clerk of this Court is hereby directed to enter this judgment as a general judgment.

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15 7/25/2022 8:14:53 AM

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17 Circuit Court Judge Mari Garric Trevino

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20 The parties hereby stipulate to and move for entry of this Stipulated General Judgment:

21 HERSHNER HUNTER, LLP

OREGON DEPARTMENT OF JUSTICE

22 /s/Nancy K. Cary

/s/Belle Na

23 By: _____
Nancy K. Cary, OSB 902254
24 Of Attorneys for Plaintiff

By: _____
Belle Na, Assistant Attorney General, OSB
176107
25 Of Attorneys for Defendant State of Oregon,
Department of Revenue

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CERTIFICATE OF READINESS (UTCRC 5.100)

The foregoing **STIPULATED GENERAL JUDGMENT** is ready for judicial signature because:

- 1. Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
- 2. Each opposing party affected by this order or judgment has approved the order or judgment, as shown by the signature on the document being submitted or by written confirmation of approval sent to me.
- 3. I have served a copy of this order or judgment on all parties entitled to service and:
 - a. No objection has been served on me.
 - b. 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.
 - c. After conferring about objections, Defendant agreed to independently file any remaining objection.
- 4. The relief sought is against an opposing party who has been found in default.
- 5. An order of default is being requested with this proposed judgment.
- 6. Service is not required pursuant to UTCRC 5.100(3), or by statute, rule, or otherwise.
- 7. 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 UTCRC 5.100(4).

DATED: July 22, 2022.

HERSHNER HUNTER, LLP

By /s/Nancy K. Cary
Nancy K. Cary, OSB 902254
ncary@hershnerhunter.com
Of Attorneys for Plaintiff