

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

U.S. BANK NATIONAL ASSOCIATION AS
TRUSTEE FOR THE HOLDERS OF THE
BANC OF AMERICAN FUNDING
CORPORATION, 2008-FT1 TRUST,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2008-FT1,

Plaintiff,

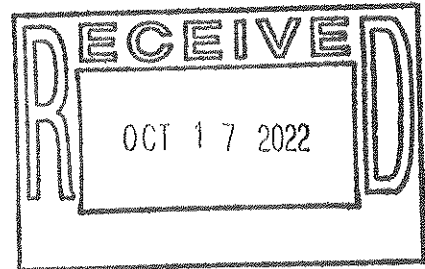
vs.

MARK K. PILLING; SANDRA E. PILLING;
OLD WEST FEDERAL CREDIT UNION;
NORTHEAST OREGON BUSINESS
DEVELOPMENT, INC.; ASSET
ACCEPTANCE, LLC; JOHN AND JANE
DOES, I THROUGH V, OCCUPANTS OF
THE SUBJECT REAL PROPERTY,

Defendants.

Case No.: 18CV42633

WRIT OF EXECUTION IN
FORECLOSURE



TO THE UNION COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on June 10, 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 TRUSTEE FOR THE HOLDERS OF
THE BANC OF AMERICAN FUNDING CORPORATION, 2008-FT1 TRUST, MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2008-FT1
c/o Grace Chu
Attorney for Plaintiff

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

3 With the adjudicated amount due of \$143,390.57, plus pre judgment interest at the per diem of
4 \$38.12 from 5/10/2022 to 6/10/2022 in the amount of \$1,181.72, plus post judgment interest at
5 the statutory rate of 9.0% per annum from 6/10/2022 to 9/27/2022 in the amount of \$3,849.98,
6 and continuing with a per diem of \$35.65, currently totaling \$148,422.27.

7 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
8 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
9 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
10 about March 20, 2005, the date of the Deed of Trust, and also the interest that the Defendant had
11 thereafter, in the real property described as follows:

12 THE EAST 70 FEET OF THE WEST 140 FEET OF LOT 3 OF BLOCK 6 OF
13 HONAN'S ADDITION TO LA GRANDE, UNION COUNTY, OREGON,
ACCORDING TO THE RECORDED PLAT THEREOF

14 and commonly known as: 2003 E N AVE, LA GRANDE, OR 97850.

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

20 **DATED:** 21 day of September, 2022 .

21 Michelle Leonard, Trial Court Administrator
22 Title

23 By: 



1 Dated: September 21, 2022 and submitted by:

2 McCarthy & Holthus, LLP

3
4
5 s/Grace Chu

6 _ John Thomas OSB No. 024691
7 _ Michael Scott OSB No. 973947
8 _ Grace Chu, OSB No. 220848
9 920 SW 3rd Ave, 1st Floor
10 Portland, OR 97204
11 Phone: (971) 201-3200
12 Fax: (971) 201-3202
13 gchu@mccarthyholthus.com
14 Of Attorneys for Plaintiff
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

U.S. BANK NATIONAL ASSOCIATION
AS TRUSTEE FOR THE HOLDERS OF
THE BANC OF AMERICAN FUNDING
CORPORATION, 2008-FT1 TRUST,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2008-FT1,

Case No.: 18CV42633

GENERAL JUDGMENT OF
FORECLOSURE

Plaintiff,

vs.

MARK K. PILLING; SANDRA E.
PILLING; OLD WEST FEDERAL CREDIT
UNION; NORTHEAST OREGON
BUSINESS DEVELOPMENT, INC.;
ASSET ACCEPTANCE, LLC; JOHN AND
JANE DOES, I THROUGH V,
OCCUPANTS OF THE SUBJECT REAL
PROPERTY,

Defendants.

1.

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

- a. Defendants Old West Federal Credit Union, Northeast Oregon Business Development, Inc., Asset Acceptance, LLC, John and Jane Does, I Through V, and Occupants Of The Subject Real Property ("Defaulted Defendants") were duly served with process and failed to appear; the judgment has been entered against Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005,

1 minors, or in the military service of the United States;

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 Union County,
5 Oregon, and is commonly known as 2003 E N Ave, La Grande, OR 97850 (the "Subject
6 Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
7 3095.
- 8 b. Plaintiff is entitled to enforce the note dated February 14, 2005 and made, delivered, and
9 executed by Mark Pilling and Sandra Pilling to Bank of America, N.A. in the amount of
10 \$76,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and
11 by indorsement set forth on the Note.
- 12 c. A deed of trust was made, executed, and delivered by Defendants Mark Pilling and Sandra
13 Pilling on or about February 14, 2005 (the "Deed of Trust"). The Deed of Trust was
14 recorded on February 14, 2005 as Instrument No. 20050933 in the official records of Union
15 County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property
16 for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or
17 claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- 18 d. The Borrower failed to make the payment that was due for August 20, 2010 and has not
19 cured the default. The amount of debt secured by the Deed of Trust that is now due and
20 owing is comprised of the following amounts (the "Amount Due"):

- 21 a) Unpaid principal balance: \$57,968.82
- 22
- 23 b) Prejudgment interest accruing from \$60,725.52
24 4/23/2011 through 5/10/2022 and
continuing until the entry of
judgment at the variable rates
- 25 c) Additional amounts due under the \$22,755.16
26 terms of the loan:
- 27 d) Attorney fees and costs: \$1,856.07
- 28

1
2 e) Prevailing party fee (ORS 20.190 (1)(b)(A)): \$85.00

3 **Total: \$143,390.57**

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

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

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

11 g. All right, title and interest in the Subject Property that Defendant(s) Mark Pilling and Sandra
12 Pilling had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be
13 sold by the Union County Sheriff's Office in accordance with the process for sale upon
14 execution, and the proceeds of sale shall be applied:

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

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

24 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
25 Property from and after the date of the sale and is entitled to such remedies as are available at
26 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
27

1 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
2 possession to the purchaser immediately upon the purchaser's demand for possession.

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

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

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

10 1) Defendant Old West Federal Credit Union, named in the caption of the Complaint,
11 claim some right, title, interest, lien or estate in and to said real property by virtue of a
12 Trust Deed dated August 15, 2007, and was recorded by the Clerk of Union County
13 as Microfilm Document, on August 20, 2007, under Recording No. 20074709. Said
14 Deed of Trust was modified by Modification of Deed of Trust or Mortgage dated
15 June 30, 2009 and recorded by the Clerk of Union County, on July 6, 2009, as a
16 Microfilm Document under Recording No. 20075341. The Trust Deed securing a
17 loan in the amount of \$37,875.00 plus interest, costs, if any, but such claims, if any
18 they have, are subsequent, inferior and junior to the claim of Plaintiff under the Deed
19 of Trust.

20 2) Defendant Northwest Oregon Business Development, Inc., named in the caption of
21 the Complaint, claim some right, title, interest, lien or estate in and to said real
22 property by virtue of Trust Deed dated September 18, 2007, and was recorded by the
23 Clerk of Union County, on September 21, 2007 as Microfilm Document, under
24 Recording No. 20075341. The Deed of Trust securing a loan in the amount of
25 \$22,000.00, plus interest, costs, if any, but such claims, if any they have, are
26 subsequent, inferior and junior to the claim of Plaintiff under the Deed of Trust.
27
28

1 3) Defendant, Asset Acceptance LLC, named in the caption of the Complaint, claim
2 some right, title, interest, lien or estate in and to said real property by virtue of a
3 Judgment dated August 14, 2013 and was recorded by the Clerk of Union County, on
4 August 14, 2013, under Recording No. 13-05-48401. The Deed of Trust securing a
5 loan in the amount of \$24,207.37 plus interest, costs, if any, but such claims, if any
6 they have, are subsequent, inferior and junior to the claim of Plaintiff under the Deed
7 of Trust.

8
9
10
11
12
13 

6/9/2022 9:50:51 AM

14 **Wes Williams, Circuit Court Judge**

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

16 On _____, a copy of the Motion For Entry Of Judgment, Declaration Of
17 Attorney Fees And Costs For Plaintiff, Plaintiff's Declaration of Amounts Due and Owing,
18 Declaration Of Amounts Due, Proposed Judgment Of Foreclosure was:

19 Served on:

20 Michael Shurtleff
21 715 Commercial St NE
22 Salem, OR 97301

23 not less than 3 days prior to submission to the court.

24 Accompanied by a stipulation by Opposing Attorney: Michael Shurtleff and Firm:
25 Salem Law LLC that no objection exists as to the judgment or order.

26 Mailed to:

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

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

1 [X] Each opposing party affected by this order or judgment has stipulated to the order or
2 judgment, as shown by each opposing party's signature on the document being
submitted.

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

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

6 [] No objection has been served on me.

7 [] 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.

8 [] After conferring about objections, _____ agreed to independently file
9 any remaining objection.

10 [X] The relief sought is against an opposing party who has been found in default.

11 [] An order of default is being requested with this proposed judgment.

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

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

15 [X] Other: The Pillings have stipulated to judgment via their counsel; the other
16 defendants failed to appear and default order was entered.

17 Dated: 6/8/22 and submitted by:

18 **McCarthy & Holthus, LLP**

19 s/ John Thomas

20 John Thomas OSB No. 024691

21 920 SW 3rd Ave, 1st Floor

22 Portland, OR 97204

23 Phone: (971) 201-3200

24 Fax: (971) 201-3202

25 jthomas@mccarthyholthus.com

26 Of Attorneys for Plaintiff

1 Dated: 6/8/2022 and stipulated to by:

2
3 **Salem Law LLC**

4 s/ Michael Shurtleff

5 Michael Shurtleff

6 715 Commercial St NE

7 Salem, OR 97301

8 Phone: (503) 798-8708

9 ms@salemllc.com

10 Of Attorneys for Mark K. Pilling and Sandra
11 E. Pilling

Jacob Flatau

From: John Thomas
Sent: Wednesday, June 8, 2022 2:05 PM
To: Jacob Flatau; IDSMH
Subject: FW: Mark Pilling | Union Co. 18CV42633 | OR-21-891634-JUD

From: Michael Shurtleff <ms@salemlawllc.com>
Sent: Wednesday, June 8, 2022 2:03 PM
To: John Thomas <jthomas@McCarthyHolthus.com>
Subject: Re: Mark Pilling | Union Co. 18CV42633 | OR-21-891634-JUD

Yes- please go ahead and add my signature to the stipulation.

Thank you.

Michael Shurtleff- Attorney

mailing Address:
Salem Law, LLC
PO Box 5250
Salem OR. 97304

Office Address:
3040 Commercial St. SE
Salem, Oregon, 97302
Office: (503) 798-8708
Cell: (503) 798-8708
Fax: (503) 664-4316

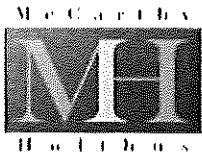
Documents may be dropped off at this location with the upstairs receptionist. The receptionist is not an employee of Salem Law, LLC and cannot answer questions or relay information about your case, but she will accept your documents and provide them to Mr. Shurtleff and will also provide receipts for payments made at the office. - Thanks!

Notice: This communication may contain privileged or otherwise confidential information. If you are not the intended recipient or believe you may have received this communication in error, please reply to the sender indicating that fact and delete the copy you received. In addition, you should not print, copy, retransmit, disseminate, or otherwise use the information. Thank you.

On Wed, Jun 8, 2022 at 1:57 PM John Thomas <jthomas@mccarthyholthus.com> wrote:

Thank you—can you confirm that I have your permission to add your e-signature in the stipulated section? If so, I will do that and file the judgment.

John Thomas | Managing Partner - Oregon | Member State Bar of OR & WA



McCarthy ♦ Holthus, LLP

m. 920 SW 3rd Ave, 1st Floor, Portland, OR 97204

d. (971) 201-3203 | c. (503) 869-2552

e. jthomas@mccarthyholthus.com

w. <http://www.mccarthyholthus.com>

“Service Second to None”

Offices in: AR | AZ | CA | CO | ID | NV | NM | OR | TX | WA

Should escalation be required, please contact: Lance Olsen at lolsen@mccarthyholthus.com.

Federal law requires us to advise you that communication with our office could be interpreted as an attempt to collect a debt and that any information obtained will be used for that purpose. The information contained herein may be privileged and protected by the attorney-client and/or other privilege. It is confidential in nature and intended for use by the intended addressee only. If you are not the intended recipient, you are hereby expressly prohibited from dissemination, distribution, copy or any use whatsoever of this transmission and its contents. If you receive this transmission in error, please reply or call the sender and arrangements will be made to retrieve the originals from your account.

From: Michael Shurtleff <ms@salemllc.com>
Sent: Wednesday, June 8, 2022 1:49 PM
To: John Thomas <jthomas@McCarthyHolthus.com>
Subject: Re: Mark Pilling | Union Co. 18CV42633 | OR-21-891634-JUD

Hi John,

I apologize for taking so long to get to you on this. I am willing to stipulate or you can just file it if you have not already.

Michael Shurtleff- Attorney

mailing Address:

Salem Law, LLC

PO Box 5250

Salem OR. 97304

Office Address:

3040 Commercial St. SE

Salem, Oregon, 97302

Office: (503) 798-8708

Cell: (503) 798-8708

Fax: (503) 664-4316

Documents may be dropped off at this location with the upstairs receptionist. The receptionist is not an employee of Salem Law, LLC and cannot answer questions or relay information about your case, but she will accept your documents and provide them to Mr. Shurtleff and will also provide receipts for payments made at the office. - Thanks!

Notice: This communication may contain privileged or otherwise confidential information. If you are not the intended recipient or believe you may have received this communication in error, please reply to the sender indicating that fact and delete the copy you received. In addition, you should not print, copy, retransmit, disseminate, or otherwise use the information. Thank you.

On Wed, Jun 1, 2022 at 12:37 PM John Thomas <jthomas@mccarthyholthus.com> wrote:

Mi Mike,

As the Covid-19 foreclosure moratoria are behind us, attached is a proposed foreclosure judgment for your review and stipulation. Please let me know if you will stipulate.

If we have to file a dispositive motion and/or pursue discovery, obviously plaintiff's attorney fees and costs will increase.

Please let me know by the close of business Monday, June 6 so that we can pursue next action accordingly.

Thanks, John

John Thomas | Managing Partner - Oregon | Member State Bar of OR & WA



McCarthy ♦ Holthus, LLP

m. 920 SW 3rd Ave, 1st Floor, Portland, OR 97204

d. (971) 201-3203 | c. (503) 869-2552

e. jthomas@mccarthyholthus.com

w. <http://www.mccarthyholthus.com>

“Service Second to None”

Offices in: AR | AZ | CA | CO | ID | NV | NM | OR | TX | WA

Should escalation be required, please contact: Lance Olsen at lolsen@mccarthyholthus.com.

Federal law requires us to advise you that communication with our office could be interpreted as an attempt to collect a debt and that any information obtained will be used for that purpose. The information contained herein may be privileged and protected by the attorney-client and/or other provisions. It is confidential in nature and intended for use by the intended addressee(s) only. If you are not the intended recipient, you are hereby expressly prohibited from dissemination, distribution, copy or any use whatsoever of this information and its contents. If you receive this transmission in error, please reply or call the sender and arrangements will be made to retrieve the originals from you at no charge.

Exhibit 1

THE EAST 70 FEET OF THE WEST 140 FEET OF LOT 3 OF BLOCK 6 OF
HONAN'S ADDITION TO LA GRANDE, UNION COUNTY, OREGON,
ACCORDING TO THE RECORDED PLAT THEREOF.

CERTIFICATE OF SERVICE

I hereby certify that on 6/8/22 I served the foregoing Motion For Entry Of Judgment, Declaration Of Attorney Fees And Costs For Plaintiff, Plaintiff's Declaration of Amounts Due and Owing, Declaration Of Amounts Due, Proposed Judgment upon the following parties by placing the executed documents in the firm's outbox for mailing:

Michael Shurtleff
715 Commercial St NE
Salem, OR 97301

McCarthy & Holthus, LLP

By: s/ John Thomas
John Thomas
Attorney for Plaintiff