

STATE OF VERMONT
_____ COUNTY, SS.

PLAINTIFF

v.

DEFENDANT

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Superior Court
Docket No. _____ - -09 cv

JUDGMENT AND DECREE OF FORECLOSURE BY JUDICIAL SALE

This foreclosure action was brought before the _____ Superior Court by complaint of *Plaintiff* dated _____, 2009 and served upon *Defendant* on _____, 2009. Judgment was granted to *Plaintiff* on _____, 2009 on the basis of [*choose one: default/ summary judgment/ findings and conclusions adjudicating claims*]. The Accounting was entered [*choose one: without hearing/ after notice and hearing*]. Pursuant to V.R.C.P. 80.1(g) and V.R.C.P. 58,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

1. **Judgment.** There is presently due and owing the principal amount of \$ _____, accrued interest as of _____ of \$ _____, court costs of \$ _____, reasonable attorneys' fees of \$ _____, recording fees in the amount of \$ _____, and additional amounts allowed in the accounting of \$ _____, making the total amount due Plaintiff as of _____ the sum of \$ _____, plus interest accruing at the rate of \$ _____ per diem, from the date of accounting until the date of redemption.

2. **Taxes.** Plaintiff is entitled to have any amounts paid for taxes after the date of the affidavit of amounts due added to the amount due at time of redemption, pursuant to 12 V.S.A. § 4525, upon proof of payment made.

3. **Mortgaged Property.** The property which is the subject of this foreclosure, the "Mortgaged Property," is described as follows:

[Must include recording information: town, book, and page.]

4. **Redemption.** It is further ordered that unless [*Defendant Mortgagor (name)* _____] pays to the Clerk of the Court on or before _____, 2009, the date of redemption payable to Court, before 4:30 p.m., the sum of \$ _____, together with any amounts established under paragraph 2 above, and together with per diem interest of \$ _____ from _____ to the date of redemption, then the Plaintiff may file a motion for a writ of possession.

It is further ordered that unless [*Most Junior Lienholder Defendant (name)* _____] pays to the Clerk of the Court on or before _____, 2009, before 4:30 p.m., the sum of \$ _____, together with any amounts established under paragraph 2 above, and together with per diem interest of \$ _____ from _____ to the date of redemption, then such party shall be foreclosed and forever barred from all equity of redemption in the Mortgaged Property.

It is further ordered that unless [*Most Senior Lienholder Defendant (name)* _____] pays to the Clerk of the Court on or before _____, 2009, before 4:30 p.m., the sum of \$ _____, together with any amounts established under paragraph 2 above, and together with per diem interest of \$ _____ from _____ to the date of redemption, then such party shall be foreclosed and forever barred from all equity of redemption in the Mortgaged Property.

5. **Mortgagor Defendant's Additional Right to Redeem.** Defendant/Mortgagor (*name*) _____ may also redeem up to the date of the judicial sale, described in paragraph 7 below, by payment of the redemption amount pursuant to 12 V.S.A. § 4532 (i).

6. **Non-Redemption; Notice of Sale.** If the Defendants shall fail to redeem the Mortgaged Property as set forth in paragraph 4 above, then the Court shall issue a Certificate of Non-Redemption, and the Mortgaged Property shall be sold as a whole to the highest bidder at public sale by a sheriff, deputy sheriff, constable, licensed auctioneer, or other disinterested person specifically appointed by the Court, pursuant to 12 V.S.A. § 4531 *et seq.* and V.R.C.P. 80.1. The sale shall take place within six months of the last redemption date under paragraph 4 above, unless extended by the Court or the case is stayed by a bankruptcy filing. Plaintiff shall send a Notice of Sale as required by 12 V.S.A. § 4532 (e) and (f) at least 60 days before the sale. If the designation of a specific date and time of sale is not included, Plaintiff shall send a supplemental Notice of Sale as required by 12 V.S.A. § 4532 (e) and (f) at least 21 days before

the sale, specifying the exact date and time of the sale. Plaintiff shall also publish a Notice of Sale in a newspaper distributed in *[town of property]* in the State of Vermont for three (3) consecutive weeks prior to the date of sale and shall specify that the property shall be sold to the highest bidder at a public sale to be held at the Mortgaged Property on a specified date and time. The first publication shall be not less than 21 days prior to the date of sale. Prior to any request for confirmation, Plaintiff shall file a copy of all Notices of Sale with the Court with a certificate of service. Plaintiff shall also file a copy of the published Notice of Sale with the Court, with a copy of publications or a certificate of publication dates.

7. **Public Sale.** At the sale, the person holding the public sale shall sell to the highest bidder all of the Mortgaged Property, subject to property taxes and municipal assessments, if any. If the Plaintiff makes the highest bid, Plaintiff shall be required to pay cash or certified funds only to the extent that its bid is in excess of the sum due it by the Defendant Mortgagor up to the date of sale under this Judgment and Decree. The purchaser at the sale shall pay cash or certified funds to the person holding the sale. The Notice of Sale shall specify that this form of payment is authorized. In any case, a deposit shall be paid at the time of sale of at least \$10,000.00 in the form of cash, a bank treasurer's check, or certified funds. Plaintiff is authorized to require the purchaser to sign a Purchase and Sales Agreement. If specified in the Notice of Sale that includes the date and time of sale, the person holding the public sale may, for good cause, postpone the sale for a period of up to thirty (30) days, from time to time until it is completed, giving notice of such adjournment and specifying the new date by public proclamation at the time and place appointed for the sale.

8. **Report of Sale.** The person holding the public sale shall file a Report of Sale, under oath, with the Court within ten (10) days of the date of sale pursuant to 12 V.S.A. § 4533 (a). The person holding the public sale, or the attorney for the Plaintiff, shall retain all sale proceeds as custodian, to be disbursed in accordance with the final Confirmation Order of this Court promptly following confirmation pursuant to 12 V.S.A. § 4533 (a).

9. **Confirmation.** Plaintiff shall file a motion for confirmation, which shall set forth the satisfaction of all statutory requirements for confirmation, supported by affidavit if necessary, and a proposed distribution of sale proceeds in specified amounts together with a factual basis for such distribution supported by the record and affidavit(s) if necessary. The Court may require Plaintiff to serve any interested persons, as well as all parties who appeared in the case,

with any motion for confirmation and notice of confirmation hearing scheduled pursuant to 12 V.S.A. § 4533 (a). At confirmation, Plaintiff may be allowed reasonable attorneys' fees and the reasonable expenses of making the sale pursuant to 12 V.S.A. § 4533 (a) as well as taxes paid since the accounting, if any, pursuant to 12 V.S.A. §4525. If the Court confirms the sale, the Court shall issue a Final Confirmation Order which shall set forth the information required by V.R.C.P. 80.1 (k) and shall order distribution of sale proceeds to named persons in specified amounts in accordance with V.R.C.P. 80.1 (j)(1). If the Court confirms the sale, the Confirmation Order shall constitute conclusive evidence as against all persons that the power was duly executed. When the purchase price has been paid in full and the Confirmation Order recorded in the land records, transfer of title is effectuated pursuant to 12 V.S.A. §4533 (b).

10. **Deficiency Claim.** Any motion for a deficiency judgment based on a claim in the complaint shall be filed at the same time as the motion for confirmation pursuant to V.R.C.P. 80.1 (j)(2); otherwise any claim for a deficiency judgment will be dismissed at the time of entry of the Confirmation Order.

If you wish to appeal this judgment, you must request permission to appeal by motion filed with the Court within ten (10) days of the date of entry of the judgment, not including that date or Saturdays, Sundays, or legal holidays.

Dated at _____, Vermont this ____ day of _____, 2009.

Hon.
Presiding Judge