

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 14-cv-00943-CMA-MEH

FEDERAL DEPOSIT INSURANCE CORPORATION,
as Receiver for FirstTier Bank of Louisville, Colorado,

Plaintiff,

v.

NORTH FLATS, LLC, and
DEBORAH A. MORGAN, as Public Trustee for Larimer County, Colorado,

Defendants.

ORDER GRANTING DEFAULT JUDGMENT

This matter is before the Court on Plaintiff's Verified Motion for Entry of Default Judgment for Reformation, Declaratory Relief and Foreclosure (Doc. # 19). The Court has read and reviewed the Motion, and read and reviewed the documents on file with this Court, and being fully advised in the premises, finds as follows:

- A. The Defendants named in this action have been properly served and the Court has jurisdiction over all parties and of the subject matter of this action.
- B. Venue has been considered and is proper.
- C. Defendant Deborah A. Morgan as Public Trustee for Larimer County, Colorado, filed a *Disclaimer of Interest* (Doc. # 13).
- D. Defendant North Flats, LLC has failed to timely plead or otherwise respond to Plaintiff's *Complaint* in this action, and said Defendant is now in default.

Accordingly, it is ORDERED that:

1. Default judgment is entered in favor of Plaintiff and against Defendant North Flats, LLC in accordance with this Order.
2. The legal description contained in the Deed of Trust for the benefit of Bank of Choice, recorded June 26, 2006 at Reception Number 2006-0047751 the "Deed of Trust") is hereby REFORMED so that Lots M-10 through M-17, Block 3, and Lots M-42 through M-49, Block 7 Old Town North, are now legally described as:

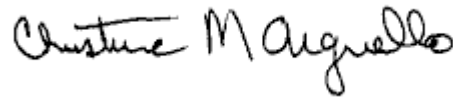
Lots 1 and 2, Block 1, and Lots 1 and 2, Block 3, North Flats
Subdivision, according to the Plat thereof recorded April 5, 2007
at Reception No. 2007-0025560, Larimer County, Colorado.

3. The lien of the Deed of Trust is a first lien against the property described by the Deed of Trust, as reformed, prior and superior to the interests of all of the Defendants named in this action, in the amount of \$789,535.96 as of May 30, 2014, together with interest continuing to accrue at the per diem rate of \$191.26 from and after May 30, 2014, costs of foreclosure, amounts expended under the Deed of Trust subsequent to May 30, 2013.
4. The attorneys' fees are reasonable and are allowed as a cost of this foreclosure.
5. The Deed of Trust, as reformed, shall be foreclosed and under Colo. R. Civ. P. 120 the Public Trustee of Larimer County Colorado, or the Office of the United States Marshall, at the option of the Plaintiff, is authorized and ordered to sell the property in the same manner as prescribed by statute for the sale of land on execution.
6. The proceeds of such sale shall be applied as follows:
 - a. First, to pay all fees, costs and expenses incurred in connection with the sale;
 - b. Second, to repay advances for taxes, prior liens, insurance and other sums authorized by law and the Deed of Trust after entry of this order;
 - c. Third, to pay Plaintiff FDIC-R, the amount due and owing on the Judgment and Deed of Trust as set forth in paragraph 3, above, together with interest, costs and attorney's fees as set forth herein;
 - d. Fourth, to pay any balance remaining into the Registry of this Court to be applied as the Court shall hereinafter direct;

- e. This Order shall be a writ of special execution and no levy need be made.
- f. Following the foreclosure sale, a Certificate of Purchase shall be executed and delivered to the highest bidder at the sale and cause a duplicate of such Certificate of Purchase shall be recorded with the Clerk and Recorder of Larimer County, Colorado. A report of the sale shall be made to this Court as soon as possible thereafter, and, upon expiration of the period of redemption provided by law, execute and deliver a deed conveying the property, as reformed, to the holder of the certificate of purchase, unless the property is sooner redeemed.

DATED: September 30, 2014

BY THE COURT:

A handwritten signature in black ink, reading "Christine M. Arguello". The signature is written in a cursive, flowing style.

CHRISTINE M. ARGUELLO
United States District Judge