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Forms Committee Presents Additional Standard Pleading Samples for Use in Foreclosures through Public Trustee

Dicta Editorial Board

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FORMS COMMITTEE PRESENTS ADDITIONAL STANDARD PLEADING SAMPLES FOR USE IN FORECLOSURES THROUGH PUBLIC TRUSTEE

In the December, 1951, issue of *Dicta*, certain standard pleading samples to be used in proceedings under Rule 120 and foreclosures through the Public Trustee were printed. Because of space limitations, the entire group of samples presented by the Forms Standardization Committee could not be printed in that issue. Additional samples to complete the set appear on the following pages.¹

Forms Standardization Committee
ROYAL C. RUBRIGHT, Chairman
Sub-Committee on District Court Forms
DONALD M. LESHER, Chairman

WITHDRAWAL OF NOTICE OF ELECTION AND DEMAND FOR SALE BY PUBLIC TRUSTEE

TO THE PUBLIC TRUSTEE IN AND FOR THE *CITY AND* *COUNTY OF DENVER*, IN THE STATE OF COLORADO:

The undersigned hereby withdraws the notice of Election and Demand for Sale by Public Trustee, dated the *20th* day of *November, 1951*, wherein a sale was demanded under that certain Deed of Trust executed by *Manasseh Msqpbzd and Minnie Msqpbzd* to the Public Trustee in and for the *City and County of Denver, Colorado*, which said Notice of Election and Demand for Sale was Recorded on the *20th* day of *November, 1951*, in the office of the Clerk and Recorder of said *City and County of Denver* in Book *97457* at Page *908* of the records of said office.

Dated this *13th* day of *December, 1951*.

Darius Dexter Grtholm.

The above mentioned Notice of Election and Demand for Sale by Public Trustee has this day been withdrawn.

Dated this *14th* day of *December, 1951*.

Seth Sigismund

Public Trustee in and for *City*
and County of Denver, Colo-
rado.

¹ The samples submitted in the December, 1951, *Dicta*, took the proceedings through the Public Trustee's sale and assignment of the Certificate of Purchase. The samples submitted herewith proceed from that point. Although the Withdrawal submitted herewith predates the Certificate of Sale heretofore submitted, it will be used only in those instances in which the obligor pays off the obligation (or in which the holder wishes, for any other reason, to prevent the sale) after sale proceedings have been commenced.

IN THE DISTRICT COURT IN AND FOR THE CITY AND COUNTY OF DENVER, STATE OF COLORADO

CIVIL ACTION NO. Y 711, DIV. 7

IN THE MATTER OF THE APPLICATION OF *DARIUS DEXTER GRTHVLM* FOR AN ORDER AUTHORIZING THE PUBLIC TRUSTEE OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, TO SELL CERTAIN REAL ESTATE UNDER A POWER OF SALE CONTAINED IN A DEED OF TRUST.

MOTION TO STRIKE FROM DOCKET ²

COMES NOW the above named petitioner by his attorney, *Silvester Hasede*, and states that an Order for Sale herein was entered by this Honorable Court on *December 6, 1951*; that the Public Trustee has not completed the sale under this Order of Sale.³

WHEREFORE, your petitioner moves that this Honorable Court strike said cause from the docket.

Dated at *Denver*, Colorado, this *6th* day of *July*, 1952.

Silvester Hasede
Attorney for Petitioner.

IN THE MATTER OF THE APPLICATION OF *DARIUS DEXTER GRTHVLM* FOR AN ORDER AUTHORIZING THE PUBLIC TRUSTEE OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, TO SELL CERTAIN REAL ESTATE UNDER A POWER OF SALE CONTAINED IN A DEED OF TRUST.

ORDER STRIKING FROM THE DOCKET

THIS MATTER having come on to be heard:

THE COURT DOTH ORDER:

That said cause be stricken from the docket and that no further action be had in said cause.

Done in Open Court this *6th* day of *July*, 1952.

BY THE COURT:

Zadok Zedekiah
Judge.

² Because the Court has already taken final action by its order of sale, it is felt that a motion to dismiss would not be appropriate. The sample submitted will be used when the order of sale has been previously entered by the District Court, but the sale by the Public Trustee will not occur by reason of withdrawal, pay-off, etc. Some action is necessary in the District Court because Rule 120 requires that a return of the sale be made for the Court's approval.

³ In the event that the Public Trustee has not commenced procedure, this fact should be alleged.

TRUSTEE'S CERTIFICATE OF REDEMPTION ⁴

STATE OF COLORADO }
City and County of Denver } ss.

I, *SETH SIGISMUND*, Public Trustee in and for the *City and County of Denver*, State of Colorado, do hereby certify that *Valentine Victor* has this day paid to me *Eight Thousand Two Hundred Twenty-two and 74/100 (\$8,222.74)* Dollars,⁵ and has this day redeemed from the Public Trustee's sale which was held at the hour of 10:00 o'clock A.M., on the 9th day of *January*, 1952, at the *Bannock Street* main entrance of the *City and County Building* in the *City and County of Denver*, State of Colorado, the real estate hereinafter described and which was sold by virtue of the power and authority in me vested by that certain Deed of Trust made, executed and delivered by *Manasseh Msqpbzd and Minnie Msqpbzd* of the *City and County of Denver*, State of Colorado, to the Public Trustee in the *City and County* aforesaid, dated the 18th day of *April*, 1948, and duly recorded in Book 97346, at page 897, of the records in the office of the Clerk and Recorder of the said *City and County of Denver* to secure to *Darius Dexter Grthvlm* the payment of the indebtedness in said Deed of Trust described, the said sale having been made for the sum of *Seven Thousand Nine Hundred Eighty-three and 24/100 (\$7,983.24)* Dollars, and a certificate thereof duly recorded in the office of the Clerk and Recorder of the *City and County of Denver*, in the State of Colorado, on the 9th day of *January*, 1952, in Book 97567 at page 908 of said records.

I further certify that the said *Valentine Victor* so redeeming said property claimed that he redeemed the same, as

Owner and holder of the following lien, to-wit: Subsequent Deed of Trust as appears of record in Book 97358, at page 765, of the Records of said Clerk and Recorder's office, and that *he* further claimed there was due *him* upon said lien *Five Thousand Three Hundred and 00/100 (\$5,300.00)* Dollars.

The said real estate so redeemed being described as follows, to-wit:

⁴ Section 158, Chapter 40, COLO. STAT. ANN., (1935) reads as follows: "Within six months after the date of the sale of real estate by virtue of any foreclosure of a mortgage, trust deed or other lien, or by virtue of an execution and levy, the owner of the premises or any person who might be liable upon a deficiency may redeem the premises sold by paying to the public trustee, sheriff or other proper officer the sum for which the property was sold, with interest from the date of sale at the rate of eight per cent per annum, together with any taxes paid or other proper charges as now provided by law and a certificate of redemption shall be executed by the proper officer and recorded and the public trustee, sheriff, or other officer shall forthwith pay said money to the holder of the certificate of purchase." Persons other than the owner of the premises or persons liable upon a deficiency shall proceed as provided in Section 159, Chapter 40, COLO. STAT. ANN., (1935) giving notice of intention to redeem as therein provided. See Mr. Morris' article, December, 1951, Dicta, p. 455.

⁵ Section 5, Chapter 88, COLO. STAT. ANN., (1935) COLO. LAWS, c. 139, Sec. 4 p. 587 (1935) provides for interest at the rate of 6% per annum. This section supersedes Section 158, Chapter 40, quoted in footnote 4.

Lot 1, Block 1, Lake Clozer Subdivision,
situate in the *City and County of Denver, State of Colorado.*

WITNESS my hand and seal this *9th day of July, 1952.*⁶

(Seal)

Seth Sigismund

As Public Trustee in the *City
and County of Denver, State
of Colorado.*

STATE OF COLORADO }
City and County of Denver } ss.

The foregoing instrument was acknowledged before me this *9th day of July, 1952,* by *Seth Sigismund,* Public Trustee in said *City and County of Denver, Colorado.*

Witness my hand and official seal.

My commission expires *November 15, 1955.*

(Notarial Seal)

Uriah Urban

Notary Public.

PUBLIC TRUSTEE'S DEED

THIS INDENTURE Made this *Eleventh* day of *August* in the year of our Lord One Thousand nine Hundred and *Fifty-two*⁷ between *SETH SIGISMUND* as the Public Trustee in the *City and County of Denver* and State of Colorado, party of the first part, and *Jabez Jairus Julian,* of the *City and County of Denver* and State of Colorado, party of the second part:

Witnesseth, That whereas, *Manasseh Msqpbzd and Minnie Misqpbzd* of the *City and County of Denver,* in State of Colorado, did, by *their* certain trust deed, dated the *18th* day of *April, 1948,* which said deed was recorded in the office of the Clerk and Recorder of the *City and County of Denver,* in the State of Colorado, on the *20th* day of *April, 1948,* in book *97346* on page *897,* convey to the Public Trustee in the *City and County of Denver,* in the State of Colorado, all the premises hereinafter described, to secure the payment of *their* certain promissory note in said deed particularly mentioned, and upon certain conditions in said deed particularly declared.

And, Whereas, Default having been made in the payment of the *principal installments and other payments* and notice of *election and demand for sale, in writing, having been duly filed with the Public Trustee,* the said premises were duly advertised for sale at public auction on the *9th* day of *January, 1952,* at the *Bannock Street main* entrance of the *City and County Building,* in the *City and County of Denver* and State of Colorado, in the manner provided by said trust deed, which notice of sale was published previously in *The Denver Clarion* for a period of *Four Weeks* and a

⁶ Section 160, Chapter 40, COLO. STAT. ANN., (1935) prescribes the contents of the Certificate of Redemption. See also Section 161-168, Chapter 40, COLO. STAT. ANN., (1935) and Mr. Morris' article, December, 1951, Dicta, pp. 454-456.

⁷ Under no circumstances should the issuance of the Public Trustee's deed be delayed beyond nine months after the expiration of the last period of redemption. Sections 164, 164(1), Chapter 40, COLO. STAT. ANN., (1949 Supp.)

printed copy of said notice of sale was duly mailed by the Public Trustee within ten days from the date of the first publication to the grantor in said Deed of Trust and to each and every person who appeared to have acquired a record interest in the real estate therein described, subsequent to the recording of said trust deed, as provided by law.

And Said Premises Were, Upon the day and year, and at the place mentioned aforesaid, in pursuance of said notice of sale, sold at public auction, and at the said sale *Darius Dexter Grthvlm* was the highest and best bidder, and bid for the tract hereinafter described the sum of \$7,983.24 Dollars, and a certificate of purchase was made and given therefor.

And the said *Darius Dexter Grthvlm*, having duly assigned his certificate of purchase to *Jabez Jairus Julian*,

Now, Therefore, These Presents Witness, That the said party of the first part, in pursuance of the power and authority in him vested in and by the said trust deed, and by virtue of the provisions of the statute in such cases made, and in consideration of the sum of two dollars, to the Public Trustee in hand paid by the said *Jabez Jairus Julian*, the receipt whereof is hereby acknowledged, hath and doth hereby convey, remise, release and quit-claim to the said party of the second part, his heirs and assigns forever, all the right, title and interest, as well in law as in equity, which the Public Trustee hath acquired by virtue of the trust deed above mentioned, of, in, and to all the following described tract, piece or parcel of land, situate, lying and being in the *City and County of Denver* and State of Colorado, to-wit:

Lot 1, Block 1, Lake Clozer Subdivision.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversions, remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, claims and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in and to the same, and any and every part thereof, with the appurtenances which the said party of the first part acquired by virtue of said trust deed; and all the right, title, benefit and equity of redemption of *Manasseh Msqpbzd and Minnie Msqpbzd*, their heirs and assigns therein.

To Have and to Hold the aforesaid right, title and interest of the said party of the first part unto the said party of the second part, his heirs and assigns forever, as fully and absolutely as the said party of the first part can, by virtue of the power and authority in him vested by said trust deed, convey the same.

In Witness Whereof, The said party of the first part has hereunto set his hand and seal the day and year first above written.⁸

⁸ For the most part, the preparation of the Public Trustee's deed will consist of filling in blanks. See Mr. Morris' article, December, 1951, Dicta, pp. 457-459.

(SEAL)

*Seth Sigismund*As Public Trustee in and for the
*City and County of Denver.*STATE OF COLORADO, }
City and County of Denver } ss.

The foregoing instrument was acknowledged before me this 11th day of August, 1952, by *SETH SIGISMUND*, as the Public Trustee in said *City and County of Denver*, Colorado.

Witness my hand and official seal.

My commission expires *Nov. 15, 1955.*

(Notarial Seal)

*Uriah Urban**Notary Public.*

PLACEMENT OPPORTUNITIES

Two government agencies have recently made urgent appeals to the Bar Association for assistance in their personnel procurement programs.

The Federal Bureau of Investigation is in need of attorneys willing to serve the Bureau at an entrance salary of \$5,500.00 per year. While qualification demands are high, these standards have recently been lowered. Further information may be obtained from the Federal Bureau of Investigation, 518 Railway Exchange Building, Denver.

Fifth Army Headquarters has asked us to call to the attention of the younger members of the Bar a procurement program of the Judge Advocate General's Corps. Qualified lawyers may receive direct commissions in the Corps as First Lieutenants with an immediate call to active duty for a three year period. Provision has been made for the waiver of experience requirements where it is deemed appropriate. Additional information may be had by contacting the Chief of the Colorado Military District, Elks Building, Denver 2, Colorado.

All lawyers are reminded of the Lawyer Placement Service conducted by the Bar Association. Law firms or attorneys in need of associates or employees and lawyers seeking associations or employment are urged to communicate with the Bar Association Secretary.

We have been asked to announce that copies of the pamphlet "YOUR FEDERAL INCOME TAX" are now available at twenty-five cents each from the field office of the U. S. Department of Commerce, Room 150, New Custom House, Denver.