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**COX, WOOTTON, LERNER,  
GRIFFIN, HANSEN & POULOS, LLP**  
Marc T. Cefalu (SBN 203324)  
Max L. Kelley (SBN 205943)  
190 The Embarcadero  
San Francisco, CA 94105  
Telephone No.: 415-438-4600  
Facsimile No.: 415-438-4601

Attorneys for Plaintiff/Cross-Defendant/  
Cross-Complainant,  
CATERPILLAR FINANCIAL SERVICES  
CORPORATION

JS-6

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CATERPILLAR FINANCIAL  
SERVICES CORPORATION

Plaintiff,

v.

M/V SPIRIT OF TWO THOUSAND &  
TEN, Official No. 806696, its engines,  
tackle, machinery, furniture, apparel,  
appurtenances, etc., *in rem*, and DOES  
1-10.

Defendants.

AND RELATED CROSS-ACTIONS.

Case No.: CV13-7384-JFW JEM  
**IN ADMIRALTY  
JUDGMENT**

**JUDGMENT**

The defendants FORUM NATIONAL INVESTMENTS, LTD. (“Forum National”), DANIEL CLOZZA (“Clozza”), and MARTIN TUTSCHEK (“Tutschek”) (collectively “Defendants”), having failed to appear, plead or otherwise defend in this action, and defaults having been entered by the clerk against defendant Forum National on October 8, 2014, and against defendants

COX, WOOTTON,  
LERNER  
GRIFFIN, HANSEN  
& POULOS, LLP  
190 THE EMBARCADERO  
SAN FRANCISCO, CA  
94105  
TEL: 415-438-4600  
FAX: 415-438-4601

1 Clozza and Tutschek on December 23, 2014, and counsel for plaintiff  
2 CATERPILLAR FINANCIAL SERVICES CORPORATION (“Caterpillar”)  
3 having requested judgment against the defaulted Defendants and having filed a  
4 proper application and supporting declarations in accordance with Federal Rule  
5 of Civil Procedure 55 (a) and (b);

6 IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:  
7 JUDGMENT IS ENTERED in favor of plaintiff CATERPILLAR  
8 FINANCIAL SERVICES CORPORATION and against FORUM NATIONAL  
9 INVESTMENTS, LTD., DANIEL CLOZZA, and MARTIN TUTSCHEK,  
10 jointly and severally, in the amount of \$5,375,237.23, as set forth more fully  
11 below:

12 1. Plaintiff Caterpillar is entitled to damages as alleged in the  
13 Verified Complaint on file herein for Breach of Contract and Preferred Ship  
14 Mortgage and for Foreclosure of the Preferred Ship Mortgage, and as set forth  
15 in its Application for Default Judgment by Court. Damages are awarded as  
16 follows:

17 **A. Breach of Contract:** Judgment against Defendants, and each of  
18 them jointly and severally, in the amount of \$4,472,239.78 in unpaid principal,  
19 due and owing on the Mortgage and Security Agreement, plus \$505,114.71 in  
20 accrued interest.

21 **B. Attorney Fees and Costs:** Judgment for reasonable attorneys’  
22 fees in the amount of \$103,147.09 is awarded in favor of Plaintiff Caterpillar  
23 and against Defendants, and each of them jointly and severally. Said fees were  
24 provided for in the Mortgage and Security Agreement under which this action  
25 was brought. The amount stated above represents the amount of attorneys’  
26 fees allowed under Local Rule 55-3 based upon a recovery of \$4,977,354.49 in  
27 principal and interest due and owing under the subject Mortgage and Security  
28 Agreement (exclusive of costs).

1           **C. Custodia Legis Expenses:** Plaintiff Caterpillar is entitled to a  
2 judgment for *custodia legis* expenses in the amount of \$294,735.65 against  
3 Defendants, and each of them jointly and severally. Said costs include  
4 *custodia legis* fees from the date of arrest and detention of the Defendant  
5 Vessel from October 7, 2013, through July 8, 2014, by the duly appointed  
6 Substitute Custodian, and costs charged to Caterpillar by the U.S. Marshal for  
7 arresting and selling the Vessel, maintaining insurance, and publishing the  
8 notice of arrest.

9           **D. Sum Total of Judgment:** For good cause, judgment in the  
10 amount of \$5,375,237.23 is entered in favor of Plaintiff Caterpillar and against  
11 Defendants, and each of them, jointly and severally. Interest to accrue at the  
12 legal rate on the judgment.

13           The Clerk of the Court is Ordered to enter this judgment forthwith.

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17 DATED: April 15, 2015

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19 U.S. DISTRICT COURT JUDGE

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26 COX, WOOTTON,  
LERNER  
GRIFFIN, HANSEN  
& POULOS, LLP

27 190 THE EMBARCADERO  
SAN FRANCISCO, CA  
94105  
TEL: 415-438-4600  
FAX: 415-438-4601

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