

1 PAUL N. BALESTRACCI (SBN: 83987)
LISA BLANCO JIMENEZ (SBN: 234671)
2 NEUMILLER & BEARDSLEE
A PROFESSIONAL CORPORATION
3 P.O. Box 20
Stockton, CA 95201-2030
4 Telephone: (209) 948-8200
Facsimile: (209) 948-4910

5 Attorneys for Plaintiff,
6 BANK OF THE WEST

7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 BANK OF THE WEST, a California
11 corporation,

12 Plaintiff,

13 vs.

14 M/V SAND DOLLAR, Official Number
1058606, Hull Number CIR30024L596, a 1996
15 Carroll Marine Mumm 30, 6 gross ton,
recreational vessel, including her engines, tackle,
16 apparel, furniture, equipment, and supplies, etc.
in rem, and ERICH C. BAUER, *in personam*,

17 Defendants.

) Case No. 2:10-cv-00363-LKK-DAD

) **IN ADMIRALTY**

) **AMENDED ORDER AUTHORIZING**
) **ARREST OF DEFENDANT VESSEL**
) **PURSUANT TO SUPPLEMENTAL**
) **ADMIRALTY RULE C**

Bank of the West

Doc. 25

18
19 Plaintiff BANK OF THE WEST (“BANK”), by and through its attorneys of record
20 Neumiller & Beardslee, having appeared in the matter, having reviewed Plaintiff’s Application to
21 Amend Order Authorizing Arrest of Defendant Vessel pursuant to Supplemental Admiralty Rule C,
22 as well as the Declarations of Substitute Custodian Robert McKee, Jr. and Paul N. Balestracci in
23 support of Plaintiff’s Application to Amend Order Authorizing Arrest of Vessel,

24 IT IS HEREBY ORDERED AND ADJUDGED that this court’s order of February 16, 2010
25 (Doc. No. 12) Authorizing Arrest of Defendant Vessel pursuant to Supplemental Admiralty Rule C
26 is amended as follows:

27 ////

28 ////

1 The Court, having reviewed the Verified Complaint of the Plaintiff BANK OF THE WEST,
2 and upon application of Plaintiff for an Order Authorizing a Warrant of Arrest, finds that the
3 conditions for an action *in rem* appear to exist, and it is therefore

4 ORDERED that the immediate issuance of a warrant for the arrest of the Defendant Vessel
5 M/V SAND DOLLAR, Official Number 1058606, Hull Number CIR30024L596, a 1996 Carroll
6 Marine Mumm 30, 6 gross ton, recreational vessel, including her engines, tackle, apparel, furniture,
7 equipment, and supplies, etc. *in rem*, and all of her engines, tackle, accessories, equipment,
8 furnishings (the "VESSEL") and appurtenances is authorized, and

9 IT IS FURTHER ORDERED that the Clerk of the District Court shall immediately prepare a
10 Warrant for the Arrest of the Defendant VESSEL and shall deliver it to the United States Marshal
11 for the Eastern District of California for service; and

12 IT IS FURTHER ORDERED that any person claiming an interest in the Defendant VESSEL
13 shall be entitled upon request to a prompt hearing at which the Plaintiff shall be required to show
14 why the arrest should not be vacated or other relief granted consistent with the Supplemental Rules
15 for Certain admiralty and Maritime Claims, and

16 IT IS FURTHER ORDERED that a copy of this Order be attached to and served with the
17 said Warrant For Arrest In Action *in rem*, and

18 IT IS FURTHER ORDERED that the United States Marshal for the Eastern District of
19 California may enter the real property at 14191 Sargent Avenue, Galt, California to serve the arrest
20 warrant on the VESSEL, and take possession thereof, and further to use whatever force necessary to
21 gain entry to the real property to serve the warrant and take possession of the VESSEL, including
22 any force reasonably necessary to overcome any lock or other barrier to entry of the real property.

23
24 DATED: April 6, 2010.

25 
26 _____
27 DALE A. DROZD
28 UNITED STATES MAGISTRATE JUDGE

29 Ddad1/orders.civil/bankofwest0363.arrestofvessel.amendedord