

1 JOHN D. GIFFIN, CASB No. 89608
 john.giffin@kyl.com
 2 ELIZABETH P. BEAZLEY, CASB No. 138198
 elizabeth.beazley@kyl.com
 3 JAMES A. MARISSSEN, CASB No. 257699
 james.marissen@kyl.com
 4 TARA B. VOSS, CASB No. 261967
 tara.voss@kyl.com
 5 KEESAL, YOUNG & LOGAN
 A Professional Corporation
 6 400 Oceangate, P.O. Box 1730
 Long Beach, California 90801-1730
 7 Telephone: (562) 436-2000
 Facsimile: (562) 436-7416

8 Attorneys for
 9 NORDEA BANK FINLAND Plc, Singapore Branch

10
 11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13

14 VALERIE SHIPPING INC.,)	Case No. CV 11 0911 JSW
)	
15 Plaintiff,)	PROPOSED ORDER GRANTING
)	INTERLOCUTORY SALE
16 vs.)	AS MODIFIED
)	N.D. Admir. L.R. 9-2
17 KOREA LINE SINGAPORE PTE, LTD.,)	
)	
18 Defendant.)	Date: May 27, 2011
)	Time: 9:00 a.m.
19 and)	Place: Courtroom 11
)	
20)	
21 NORDEA BANK FINLAND PLC, SINGAPORE BRANCH.)	
)	
22 Intervening Plaintiff.)	
)	

23 **Having had oral argument, Defendant having failed to appear and oppose the motion, and there**
 24 **being no further opposition to the Motion**
 This Court having considered Nordea Bank Finland PLC, Singapore
 25 Branch's Unopposed Motion for Interlocutory Sale of the Singapore flagged tanker *M/T*
 26 *BLUE JADE*, IMO No. 9419735, her masts, boilers, cables, engines, machinery, etc., (the
 27 "Vessel") is of the opinion that the expenses and costs which are now being and will be
 28 incurred for the safe keeping and care of the Vessel while under attachment and arrest

1 are excessive, and that the Vessel is deteriorating and is liable to injury while detained
2 during the pendency of this cause and that there has been unreasonable delay in
3 securing the release of the Vessel. Accordingly, the Unopposed Motion for Interlocutory
4 Sale is meritorious and should be granted.

5 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the
6 United States Marshal for the Northern District of California ("Marshal") be, and is
7 hereby directed to sell the Vessel, AS IS WHERE IS at public auction to the highest
8 bidder, free and clear of all liens, preexisting claims, and encumbrances on said vessel.
9 Said sale shall be held at the office of the United States Marshal for the Northern
10 District of California, U.S. Courthouse/Phillip Burton Building, 450 Golden Gate
11 Avenue, Room 20-6888, San Francisco, California 94102, on a date and time to be set by
12 the U.S. Marshall, upon notice and terms of sale contained herein below.

13 **IT IS FURTHER ORDERED** that Nordea Bank Finland PLC, Singapore
14 Branch ("Nordea"), will arrange for the advertisement of a notice of sale pursuant to
15 Admir. L.R. 9-2(a) in the *San Francisco Daily Journal*, which is designated as a paper of
16 general circulation in this district, for six (6) consecutive days before the sale date, to
17 show in said notice the time and place where said sale will be conducted and to advise
18 prospective bidders of how they may board the Vessel for purposes of inspection thereof.
19 The notice will further show that the last and highest bidder will be required to deliver
20 to the Marshal at the time of said sale a minimum deposit in cash or by certified check
21 or cashier's check, of the full purchase price if it does not exceed \$1,000, and otherwise
22 \$1,000 or ten (10) percent of the bid price, whichever is greater, the balance thereof to be
23 paid in cash or by certified check or cashier's check before confirmation of the sale or
24 within three (3) court days of the dismissal of any opposition which may have been filed;

25 **IT IS FURTHER ORDERED** that Nordea is authorized by this Court to
26 effect such other advertising covering a more extensive area as can be reasonably
27 secured at a reasonable cost, and that the expenses of such additional advertisement be
28 taxed as *custodia legis* expense.

1 **IT IS FURTHER ORDERED** that National Maritime Services (“NMS”),
2 the appointed substitute custodian of the Vessel, at the request of an interested person,
3 shall grant permission to such person or his representatives to visit, board, inspect,
4 examine and survey the Vessel during any day between the date hereof and the date of
5 the sale, provided that the same shall be done at the sole expense and risk of any such
6 person or his representative and upon the reasonable terms set by NMS.

7 **IT IS FURTHER ORDERED** that consistent with Northern District
8 Admiralty and Maritime Local Rules, Rule 9-2 (b), the Marshal shall require the last
9 and highest bidder for the Vessel to make a minimum deposit in cash, certified check or
10 cashier’s check, of the full purchase price if it does not exceed \$1,000, and otherwise
11 \$1,000 or ten (10) percent of the bid, whichever is greater. The balance, if any, of the
12 purchase price shall be paid in cash, certified check or cashier’s check before
13 confirmation of the sale or within three (3) court days of the dismissal of any opposition
14 which may have been filed. Notwithstanding the above, an intervening plaintiff
15 foreclosing a properly recorded preferred mortgage on or other valid security interest in
16 the Vessel may bid, without payment of cash, certified check or cashier’s check up to the
17 total amount of the secured indebtedness as established by affidavit filed and served by
18 that party on all other parties no later than 14 days prior to the date of sale.

19 **IT IS FURTHER ORDERED** that consistent with Northern District
20 Admiralty and Maritime Local Rule 9-2(c), after the sale has concluded, the Marshal
21 shall file a written report to the Court of the fact of the sale, the price obtained and the
22 name and address of the purchaser. The Clerk of the Court shall endorse on such report
23 the time and the date of its filing. If within three (3) court days no written objection is
24 filed in the manner set forth in N.D. Admir. L.R. 9-2(f), the sale shall stand confirmed as
25 of course, without the necessity of any affirmative action thereon by this Court and the
26 Clerk upon request shall so state to the Marshal in writing except that no sale shall
27 stand confirmed until the buyer has complied fully with the terms of his purchase. If no
28 opposition to the sale is properly filed, the expense of keeping the property pending

1 confirmation of sale shall be charged against the party bearing expense before the sale
2 (subject to taxation as costs) except that if confirmation is delayed by the purchaser's
3 failure to pay any balance which is due on the price, the cost of keeping the Vessel
4 subsequent to the 3-day period hereinabove specified shall be borne by the purchaser.

5 **IT IS FURTHER ORDERED** that in accordance with Northern District
6 Admiralty and Maritime Local Rule 9-2(c) and (f) objections to the sale must be written
7 and filed with the Court within three (3) days of the sale date and served on all other
8 parties, including the purchaser. Objections shall be accompanied by a cost deposit of
9 seven (7) days of estimated expenses of custody. Further, in accordance with Northern
10 District Admiralty and Maritime Local Rule 9-2(g), if an objection to the sale is
11 sustained, sums deposited by the successful bidder will be returned to the bidder
12 forthwith. The sum deposited by the objector will be applied by the Marshal in keeping
13 the Vessel until it is resold, and any balance remaining shall be returned to the objector.
14 The objector will be reimbursed for the expense of keeping the Vessel from the proceeds
15 of a subsequent sale. If the objection is overruled, the sum deposited by the objector will
16 be applied to pay the expense of keeping the Vessel from the day the objection was filed
17 until the day the sale is confirmed, and any balance remaining will be returned to the
18 objector forthwith.

19 **IT IS FURTHER ORDERED** that consistent with Northern District
20 Admiralty and Maritime Local Rule 9-2(d), a successful bidder who fails to pay the
21 balance of the bid within the time allowed under these local rules or a different time
22 specified by the Court shall also pay to the Marshal the costs of keeping the Vessel from
23 the date payment of the balance was due to the date the bidder pays the balance and
24 takes delivery of the Vessel. Unless otherwise ordered by the Court, the Marshal shall
25 refuse to release the Vessel until this additional charge is paid.

26 **IT IS FURTHER ORDERED** that consistent with Northern District
27 Admiralty and Maritime Local Rule 9-2(e) a successful bidder who fails to pay the
28 balance of the bid within the time allowed is in default and the Court may at any time

1 thereafter order a sale to the second highest bidder or order a new sale as appropriate.
2 Any sum deposited by the bidder in default shall be applied to pay any additional costs
3 incurred by the Marshal by reason of the default including costs incident to resale. The
4 balance of the deposit, if any, shall be retained in the registry subject to further order of
5 the Court, and the Court shall be given written notice of its existence whenever the
6 registry deposits are reviewed.

7 **IT IS FURTHER ORDERED** that after the successful bidder has made
8 full payment and the sale stands confirmed, the Marshal shall deliver a Bill of Sale of
9 the Vessel to the confirmed purchaser and the Vessel shall be conveyed by the Marshal
10 "as is, where is, free and clear of all liens, claims and encumbrances of whatever nature
11 whatsoever;"

12 **IT IS FURTHER ORDERED** that the Marshal shall deposit the proceeds
13 of the sale into the registry of the Court pending further order of the Court. The Clerk of
14 Court is directed to deposit the funds into an interest bearing account;

15 **IT IS FURTHER ORDERED** that R.S. Platou Shipbrokers A.S. may be
16 appointed as the sole broker for the purpose of marketing the vessel for judicial sale and
17 will receive a commission of 0.5% of the total purchase price. Such commission shall be
18 paid from the proceeds of sale as a *custodia legis* expense.

19 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of
20 the above cause for such further proceedings as may be appropriate.

21
22 SIGNED this 6th day of ~~April~~ ^{May}, 2011.

23
24 
25 **UNITED STATES DISTRICT JUDGE**

26 **It is FURTHER ORDERED** that Nordea Bank shall serve a copy of this Order on
27 Defendant and shall file proof of such service with the Court.