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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SC

OCTAVIAN MARKA LLC,
Plaintiff,

v.

MARKA SHIPPING LTD., *in personam*,
and M/T MARKA, IMO no. 9512484, her
engines, tackle, gear, and appurtenances, *in*
rem,

Defendants.

Case No.:

CV 13 2863

IN ADMIRALTY

[PROPOSED] ORDER GRANTING
PLAINTIFF'S *EX PARTE*
APPLICATION FOR
APPOINTMENT OF SUBSTITUTE
CUSTODIAN

Plaintiff OCTAVIAN MARKA LLC ("OCTAVIAN" or "Plaintiff"), by and through
its counsel of record, having appeared and made the following recitals:

On June 20, 2013, the Verified Complaint herein was filed seeking request for
Process of Maritime Arrest of the vessel M/T MARKA, IMO number 9512482 (the
"Vessel"), belonging to Plaintiff and lying within this District as described in the Verified
Complaint on file herein, pursuant to Rule D of the Supplemental Rules for Admiralty or
Maritime Claims and Assets Forfeiture Actions and held to satisfy Plaintiff's claims.

On June 20, 2013, the Clerk of this Court issued a Process of Maritime Arrest
commanding the U.S. Marshal for the Northern District of California to arrest and take into
custody the Vessel, her engines, tackle, gear, and appurtenances.

Plaintiffs have presented the Court with evidence that the Vessel is within the

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1 District during the pendency of this action and that Plaintiff OCTAVIAN is the registered
2 owner of the Vessel which is now within this District at the Port of San Francisco (Rodeo),
3 California.

4 Plaintiffs have further verified that they have a maritime claim against the
5 defendants in the approximate amount of \$41,000,000, together with interest and attorneys
6 fees and all other appropriate costs and expenses.

7 It is contemplated that the U.S. Marshal will arrest and seize the Vessel forthwith.
8 The U.S. Marshal does not provide the services for the safekeeping of the property he (or
9 she) attaches.

10 National Maritime Services ("NMS"), a division of National Liquidators, a
11 California corporation ("National Maritime"), has agreed to assume the responsibility for
12 the safekeeping the Vessel, and has consented to act as its custodian until further Order of
13 this Court, all for a sum, including storage and routine services required for safekeeping of
14 the property, at its customary rates.

15 NMS, by declaration, avers that it has adequate abilities and supervision for the
16 proper safekeeping of the Vessel and that it possesses adequate policies of insurance for
17 commercial marine liability. Further, in accordance with the terms of this Order, NMS, as
18 Substitute Custodian accepts possession of and responsibility for the Vessel.

19 In consideration of the U.S. Marshal's consent to this substitution of custody,
20 Plaintiff agrees to release the United States and the U.S. Marshal from any and all liability
21 and responsibility arising out of the care and custody of the Vessel and all other necessities
22 pertaining and belonging to the Vessel, from the time the U.S. Marshal transfers possession
23 of the Vessel to NMS as Substitute Custodian, and Plaintiff further agrees to hold harmless
24 and indemnify the United States and the U.S. Marshal from any and all claims whatsoever
25 arising out of the Substitute Custodian's possession and safekeeping of the Vessel.

26 THEREFORE, IT IS HEREBY ORDERED that the U.S. Marshal for the Northern
27 District of California be, and is hereby, authorized and directed, upon his (or her) seizure of
28 the Vessel pursuant to the Process of Maritime Arrest, to surrender the possession thereof to

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1 NMS as Substitute Custodian, and that, upon such surrender, the U.S. Marshal shall be
2 discharged from further duties and responsibilities for the safekeeping of the Vessel and
3 held harmless by Plaintiff from any and all claims arising whatsoever out of the substitute
4 possession and safekeeping.

5 IT IS FURTHER ORDERED that NMS be, and hereby is, appointed the Substitute
6 Custodian of the Vessel to retain it in its custody for possession and safekeeping, for the
7 aforementioned compensation and until further Order of this Court.

8 IT IS FURTHER ORDERED that NMS may, in its sole professional opinion,
9 operate machinery and/or move the Vessel should it be necessary to safeguard the Vessel
10 and/or its crew, without further order of the Court.

11 IT IS FURTHER ORDERED that all reasonable expenses for the safekeeping of the
12 Vessel shall be deemed administrative (*custodia legis*) expenses of the U.S. Marshal and
13 any and all such sums paid to the U.S. Marshal and Substitute Custodian by Plaintiff shall
14 be reimbursed to Plaintiff.

15 IT IS FURTHER ORDERED that the Plaintiff's counsel of record will serve a copy
16 of this Order on the Defendants and all parties who may appear in this action.

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21 DATED: June 20, 2013



U. S. DISTRICT COURT JUDGE

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