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6 UNITED STATES DISTRICT COURT
7 SOUTHERN DISTRICT OF CALIFORNIA
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10 CATERPILLAR FINANCIAL
SERVICES CORPORATION,

11 Plaintiff,

12 v.

13 CHARTER CONNECTION
CORPORATION, *in Personam, et al.*,

14 Defendants.
15 _____

Civil No. 07cv767-L(NLS)

ORDER

**(1) GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR CREDIT BID
AUTHORITY AND FOR AWARD
OF ADDITIONAL COSTS; AND
(2) DENYING AS MOOT EX PARTE
APPLICATION FOR ORDER
SHORTENING TIME**

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17 Pending before the court in this admiralty action is Plaintiff Caterpillar Financial Services
18 Corporation's ("Caterpillar") Motion for Credit Bid Authority on the Judicial Sale of the
19 Defendant Vessel and for Award of Additional Costs Not Contemplated in the Order for Sale of
20 the Defendant Vessel. For the reasons stated below, Caterpillar's motion is **GRANTED IN**
21 **PART AND DENIED IN PART.**

22 Pursuant to orders filed August 6 and August 21, 2008, Caterpillar is the only remaining
23 claimant to the Defendant vessel. Caterpillar's motion for judicial sale of the Defendant vessel
24 was granted on August 12, 2008. Accordingly, Caterpillar's request for credit bid authority at
25 the sale is granted. However, the court is not inclined to enter a deficiency judgment against *in*
26 *personam* Defendants for an amount exceeding the difference between the a fair market value of
27 the vessel and the amount owing Caterpillar.

28 // // // //

1 Caterpillar's request for *custodia legis* expenses accrued since November 30, 2007 is
2 denied because Caterpillar has not submitted any invoices in support of the request. Exhibit 1 to
3 the declaration of Michael E. Thompson was not included. In light of the fact that Caterpillar's
4 *custodia legis* expenses have continued to accrue since November 30, 2007 and will continue to
5 accrue until the sale, and that Caterpillar's expenses cannot until then be fully quantified,
6 Caterpillar shall promptly after the sale and confirmation file with the court a motion, supported
7 by evidence, and a proposed order, which shall reflect Caterpillar's *custodia legis* expenses
8 accrued since November 30, 2007.

9 For the foregoing reasons, **IT IS HEREBY ORDERED:**

10 1. Caterpillar's request for credit bid authority at the sale is granted.

11 2. Caterpillar's request for *custodia legis* expenses accrued since November 30, 2007 is
12 denied without prejudice. Caterpillar shall promptly after the sale and confirmation file with the
13 court a motion, supporting evidence, and a proposed order, which shall reflect Caterpillar's
14 *custodia legis* expenses accrued since November 30, 2007.

15 3. Caterpillar's ex parte application for an order to shorten time is denied as moot.

16 **IT IS SO ORDERED.**

17
18 DATED: September 5, 2008

19 
20 M. James Lorenz
United States District Court Judge

21 COPY TO:

22 HON. NITA L. STORMES
23 UNITED STATES MAGISTRATE JUDGE

24 ALL PARTIES/COUNSEL
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