

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT
IN ADMIRALTY

CATERPILLAR FINANCIAL SERVICES CORPORATION,)	
)	
)	
Plaintiff,)	CIVIL ACTION NO.: 3:10-CV-1112(JBA)
v.)	
)	
M/V "CAYAH MICHELE," Official Number 1093860, Hull ID Number 976, and her components, engines, boilers, machinery, masts, boats, anchors, cables, chains, rigging, tackle, apparel, furniture, capstans, outfit, tools, pumps, gears, furnishings, appliances, etc., <i>in rem</i> ,)	
CAYAH M LLC, VEGARD NYGAARD, ODDVAR NYGAARD, FJORD CATERING AND CHARTERS LTD.,)	
)	
)	
Defendants.)	February 18, 2011

ORDER GRANTING JUDGMENT AND DIRECTING SALE OF VESSEL

This matter having come before the Court upon motion of the Plaintiff, Caterpillar Financial Services Corporation ("Caterpillar"), through its undersigned counsel, for an Order Granting judgment in favor of Caterpillar and against the vessel M/V CAYAH MICHELE, in rem, and Defendants Cayah M LLC, Vegard Nygaard, Oddvar Nygaard, and Fjord Catering and Charters Ltd., in personam, for relief consistent with Title 46, Chapter 313 of the United States Code, arising out of Defendant Cayah M LLC's default upon the terms of a Note and Preferred Ship Mortgage covering the defendant vessel, and arising out of Defendants Vegard Nygaard, Oddvar Nygaard, and Fjord Catering and

Charters Ltd.'s guaranties, and the Court having considered the papers supporting the motion, and no opposition filed,

It is, on this 18th day of February, 2011, ORDERED as follows:

1. Interlocutory judgment be and is hereby ordered in favor of Caterpillar and against Defendants Cayah M LLC, Vegard Nygaard, Oddvar Nygaard, and Fjord Catering and Charters Ltd. in the amount of \$1,368,630.66, together with attorneys' fees and expenses of \$19,196.63, incurred by Caterpillar as of August 31, 2010, for a total of \$1,387,827.29.

2. A maritime lien be and is hereby fixed on the defendant vessel M/V CAYAH MICHELE for the amount of the interlocutory judgment and the vessel be and the same is hereby condemned for public sale.

3. The defendant vessel M/V CAYAH MICHELE, together with her tackle, appurtenances, etc. shall be sold at an auction sale to be held under the auspices of the United States Marshal for the District of Connecticut upon the notice below and as below further described.

4. The Clerk of the Court shall issue a Writ of Venditioni Exponas to the Marshal of the Court for the public sale of the M/V CAYAH MICHELE to the highest responsible bidder deemed eligible under 46 U.S.C. § 31329, such sale to be subject to the confirmation of this Court.

5. Prior to March 23, 2011, Caterpillar shall cause to be published the Notice of Sale annexed hereto as Exhibit A in the Connecticut Post. The cost of publication advanced by Caterpillar herein shall be deemed an administrative expense, and shall constitute a first charge against the proceeds of any sale.

6. The sale shall be conducted under the auspices of the United States Marshal in the Richard C. Lee United States District Court House, 141 Church Street, New Haven, CT 06510, on the 30th day of March 2011 at 10 o'clock a.m. The Marshal, as the duly authorized representative, shall conduct the sale in the following manner:

(a) The sale shall be an auction sale to the highest and best responsible bidder, subject to the provisions of this Order, which shall be subject to confirmation by the Court within 10 days of the sale.

(b) The highest and best responsible bidder, except as specified in paragraph (c) below will be required to deliver to the Marshal at the time of the sale a cashier's check, certified check or cash deposit in an amount of at least ten per-cent (10%) of the bid, with the balance being paid by cash, certified or cashier's check to the Marshal within seventy-two (72) hours of the sale.

(c) Caterpillar is hereby authorized to credit bid on the vessel up and to the amount owed by defendants of \$1,368,630.66 together with attorneys' fees, insurance, costs and expenses advanced to the United States Marshal, storage of the vessel during custody and costs, fees and expenses of the Substitute Custodian to the date of sale.

7. All administrative costs incurred by or on behalf of the United States Marshal subsequent to arrest shall be deemed to be expenses of the Marshal and shall be reimbursed immediately out of the proceeds of sale. Reimbursement of the costs of publication, together with any outstanding fees owed to the Substitute Custodian up to the date of sale, shall be made by the clerk of the Court subject to court Approval.

8. After confirmation of the sale, the balance of the sale proceeds shall be transferred by the Marshal, after deduction of costs set forth in paragraph 7 of this Order, to the Clerk for deposit into the Court registry until further Order of this Court.

9. Upon confirmation of the sale, the interlocutory judgment entered this date against Defendants Cayah M LLC, Vegard Nygaard, Oddvar Nygaard, and Fjord Catering and Charters Ltd. for any additional attorneys' fees, costs or expenses as the Court may deem appropriate shall be included as part of a final deficiency judgment against Defendants Cayah M LLC, Vegard Nygaard, Oddvar Nygaard, and Fjord Catering and Charters Ltd., subject to credit for the proceeds of sale less the costs deducted pursuant to paragraph 7. The entry of final judgment shall include a decree for distribution of the sale proceeds on deposit with the Court Registry consistent with these findings.

IT IS SO ORDERED.

Hon. Janet Bond Arterton
United States District Judge

Dated at New Haven, Connecticut: February 18, 2011

NOTICE OF SALE OF VESSEL M/C CAYAH MICHELE BY PUBLIC SALE

NOTICE IS HEREBY GIVEN that the vessel M/C CAYAH MICHELE, Official Number 1093860, Hull ID Number 976, now docked at Beacon Point Marine, Inc., 49 River Road, Cos Cob, Connecticut, 06807, will be sold AS IS at public auction to the highest bidder for cash, cashier's check or certified check, with the minimum balance of ten per-cent (10%) of the bid. The balance of the purchase price shall be paid in cash, certified check or cashier's check, within seventy-two (72) hours of the sale, exclusive of Saturdays, Sundays, and legal holidays; with reservation to refuse and reject all bids if inadequate. Under Order of the United States District Court for the District of Connecticut, the sale will occur on the 30th day of March, 2011, at 10:00 a.m., at the Richard C. Lee United States District Courthouse, 141 Church Street, New Haven, CT 06510, to satisfy an Order dated February 18, 2011, in the action entitled CATERPILLAR FINANCIAL SERVICES CORPORATION v. M/V "CAYAH MICHELE," Official Number 1093860, Hull ID Number 976, and her components, engines, boilers, machinery, masts, boats, anchors, cables, chains, rigging, tackle, apparel, furniture, capstans, outfit, tools, pumps, gears, furnishings, appliances, etc., *in rem*, CAYAH M LLC, VEGARD NYGAARD, ODDVAR NYGAARD, FJORD CATERING AND CHARTERS LTD., Civil Action No. [3:10-cv-01112-JBA](#). Prior to the sale of the M/V CAYAH MICHELE, the vessel's custodian of record, Beacon Point Marine, Inc., shall permit, at the request of any interested person, upon twenty-four (24) hours prior notice and execution of an appropriate release, any such person or his representative to visit, board, inspect, examine and survey the CAYAH MICHELE during the hours of 9:00 a.m. to 5:00 p.m., provided that the same shall be done at the sole expenses and risk of any said person or his

representative. Pursuant to the above-referenced Court Order, Caterpillar Financial Services Corporation (“Caterpillar”) can credit its own bid in increments up to a total aggregate of \$1,387,827.29 plus attorneys’ fees, insurance fees and expenses advanced to the United States Marshal, wharfage of the vessel during custody, the costs, fees and expenses of the substitute custodian to the date of sale. Caterpillar will advise the U.S. Marshal of the total credit bid prior to the commencement of bidding. Appointments for visitation of the M/V CAYAH MICHELE can be made with Richard Kral of Beacon Point Marine, Inc. at (203) 661-4033.