

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

_____)	
CHAD BARRY BARNES,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 13-00002 ACK-RLP
)	
SEA HAWAII RAFTING, LLC,)	
KRIS HENRY, M/V TEHANI,)	
et al.)	
)	
Defendants.)	
_____)	

**SECOND DIRECTIVE TO THE UNITED STATES
BANKRUPTCY COURT FOR THE DISTRICT OF HAWAII**

Pursuant to the decision of the Ninth Circuit in Barnes v. Sea Hawaii Rafting, LLC, 889 F.3d 517 (9th Cir. 2018), this Court directs that the bankruptcy court transfer to this Court the \$35,000.00 in sale proceeds which the bankruptcy court received from Aloha Ocean Excursions, LLC ("AOE") in exchange for the M/V Tehani and its accompanying trailer. See Bankr. Case No. 14-01520, Dkt. No. 185. The Court understands that the bankruptcy court has indicated that in the event Plaintiff Barnes pursues enforcement of his maritime lien by arresting, seizing, and selling the M/V Tehani, then it appears that the \$35,000.00 sale proceeds should be returned to AOE, and that the bankruptcy court agrees that the \$35,000.00 sale proceeds accordingly should be returned to the United States District

Court. See Memorandum of Decision on Motions for Relief from Stay and Barton Doctrine and for Sanctions, Bankr. Case No. 14-01520, Dkt. No. 300 at pp. 8-10 & n.30 ("The trustee can hold the sales proceeds until the district court directs him to disburse some or all of the proceeds in payment of Mr. Barnes' maritime lien (or perhaps directs him to pay the sales proceeds into the registry of the district court)."). The Court further understands that the \$35,000.00 in sale proceeds is currently held by the bankruptcy trustee in bankruptcy case number 14-01520 involving Sea Hawaii Rafting, LLC.

The Court finds the transfer of the \$35,000.00 in sale proceeds appropriate because the Ninth Circuit held in its decision that the M/V Tehani had been in the constructive control of this Court, that this Court's jurisdiction over the vessel was exclusive, and that the bankruptcy court lacked jurisdiction over the vessel. Barnes, 889 F.3d at 524, 532-35.

Plaintiff Barnes has indicated that he will pursue his maritime lien to arrest, seize, and sell the M/V Tehani. ECF No. 333. This Court will hold the \$35,000.00 sale proceeds until the sale is accomplished. Upon the sale being accomplished, the Court will distribute the \$35,000.00 to AOE, which had purchased the vessel for \$35,000.00 from the bankruptcy court.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, July 9, 2018.



Alan C. Kay

Alan C. Kay
Sr. United States District Judge

Barnes v. Sea Hawaii Rafting, LLC, Kris Henry, M/V Tehani, et al., Civ. No. 13-00002 ACK-RLP, Second Directive to the United States Bankruptcy Court for the District of Hawaii.