

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

LAPIERRE'S ISLAND MARINE SERVICES, INC.,

Plaintiff

v.

M/V ANOTHER IMPULSE (O.N.1112979), her engines, boilers, tackle, appurtenances, electronics, etc., in rem,

and

CHARLES ROBERT CALIRI and SANDRA J. CALIRI, in personam,

Defendants,

and

AGO COMMONWEALTH OF MASSACHUSETTS, Party-in-Interest.

Docket No.: 2:15-cv-00137-NT

ORDER OF SALE

Upon review of LaPierre's Island Marine Service, Inc.' Motion for Sale of the M/V ANOTHER IMPULSE (O.N. 1112979), the Court finds as follows:

- 1. On April 14, 2015, LaPierre's Island Marine Services, Inc. ("Island Marine") filed a Verified Complaint against the M/V ANOTHER IMPULSE (O.N. 1112979), her engines, gear, tackle, apparel, furniture, equipment, etc. (the "Vessel"), seeking foreclosure of a maritime lien on the Vessel and seeking payment of money due and owing to it by the Vessel.

2. The United States Marshal for the District of Maine arrested and took the *M/V ANOTHER IMPULSE* (O.N. 1112979), into the Marshal's custody and, upon Order of this Court, transferred possession of the Vessel to Island Marine as substitute custodian. The Vessel currently remains in Island Marine's custody.

3. On June 2, 2015, Default Judgment was entered by this Court in favor of Plaintiff Island Marine and against Defendants *M/V ANOTHER IMPULSE*, Charles Robert Caliri, and Sandra J. Caliri.

4. A money judgment is enforced by a writ of execution, unless the court directs otherwise. Fed.R.Civ.P. 69(a). Any personalty sold under any order or decree of any court of the United States shall be sold in accordance with 28 U.S.C. § 2001, unless the court orders otherwise. 28 U.S.C. § 2004.

6. Federal District Courts may direct the enforcement of money judgments by judicial sales. *United States v. Wight*, 2007 U.S. Dist. LEXIS 16582 (E.D. Cal. 2007) (citations omitted). A judicial sale differs from an execution sale in that a judicial sale is conducted pursuant to directions of the court and the federal statutes. 28 U.S.C. §§ 2001-2007; *Yazoo & M.V.R. Co. v. City of Clarksdale*, 257 U.S. 10, 42 S. Ct. 27, 66 L. Ed. 104 (1921); *United States v. Branch Coal Corp.*, 390 F.2d 7, 9 (3d Cir. 1968). Congress has authorized the federal judiciary to use sound discretion in setting the terms and conditions for judicial sales. *United States v. Branch Coal Corp.*, 390 F.2d 7, 10 (3d Cir. 1968). *See also, South Port Marine, LLC v. M/V Crystal Marie*, DOCKET NO. 2:15-cv-122-GZS.

7. Plaintiff Island Marine has requested that this Court issue an order authorizing a judicial sale of the *M/V ANOTHER IMPULSE* on the grounds that it is in the best interest of both Plaintiff and Defendants Charles Robert Caliri and Sandra J. Caliri, and Defendant Vessel, through her owners, Defendants Charles Robert Caliri and Sandra J. Caliri, that the sale of the Vessel maximize

the value of the Vessel, which can best be accomplished by selling the Vessel at a public auction conducted by the United States Marshal's Service, which will not only allow for the sale of the Vessel free and clear of any liens or other encumbrances, but also provide the Court with oversight of the sale and confirmation process

8. The Court finds that it has discretion to order a judicial sale of the Vessel. The Court further finds that it is in the best interests of the parties hereto to maximize the value of the Vessel, and that the Court should exercise some control over the sale of the Vessel.

THEREFORE, it is hereby **ORDERED** and **DECREED** that:

1. The *M/V ANOTHER IMPULSE* (O.N. 1112979), her engines, gear, tackle, apparel, furniture, equipment, etc., be condemned and sold and that the United States Marshal or one of his Deputies shall sell such vessel, the *M/V ANOTHER IMPULSE* (O.N. 1112979), her engines, gear, tackle, apparel, electronics, furniture, equipment, etc., to the, highest bidder at a public auction to be held at Island Marine's facilities in Kittery, Maine, on a date to be set by the United States Marshal for the District of Maine.

2. Notice of such sale, in the form attached hereto as Exhibit "A" shall be published prior to the date of the sale for two consecutive weeks for at least one day per week in the Biddeford, Maine, *Journal Tribune*, a newspaper generally circulated in York County, Maine, including Kittery, in the District of Maine.

3. Island Marine is hereby permitted to bid at the sale an amount up to and including the amount of its Judgment, plus all *in custodia legis* expenses

incurred by Island Marine to the date of the sale, and to purchase the Vessel, without having to pay money to either the United States Marshal or this Court until such time as the Court so orders.

4. The terms of sale shall be as set forth in Notice attached hereto as Exhibit A.

5. Such sale shall be subject to confirmation by the Court.

6. Should a person or entity other than Island Marine be the successful bidder at the sale, then the proceeds of such sale are to be paid into the registry of this Court, subject to further orders and decrees as the Court shall make.

7. Subject to the terms of this Order, the United States Marshal shall bring the proceeds of the sale into Court and shall deposit the same with the Clerk pending further orders and decrees as the Court may issue. All liens upon the Vessel adjudged valid and enforceable by the Court shall attach to the proceeds thereof in the same relative priorities which they enjoyed when they attached to the Vessel, and the Vessel shall thereupon be sold free and clear of all liens and encumbrances whatsoever.

**SO ORDERED.**

/s/ Nancy Torresen  
United States Chief District Judge

Dated at this 3<sup>rd</sup> day of June, 2015.

# EXHIBIT A

**PUBLIC AUCTION**  
**BY**  
**U. S. MARSHAL SERVICE**

\_\_\_\_\_ .M.

\_\_\_\_\_ **2015**

**AT ISLAND MARINE SERVICES,  
32 ROUTE 236, KITTERY, MAINE**

**M/V ANOTHER IMPULSE**

(O.N. 1112979),

her engines, gear, tackle, apparel, electronics, furniture, equipment, etc.

The *M/V Another Impulse* is a 40-foot Cruisers motor yacht, with twin Volvo Penta diesel engines, constructed in 1992 by KCS International Yachts in Oconto, Wis.

Sale of vessel to be “as is – where is” without any warranties, express or implied. Vessel may be inspected upon arrangements with LaPierre’s Island Marine Services, Inc., 32 Route 236, Kittery, Maine - (207) 439-3810.

**TERMS:** If the sale price is less than \$5,000, then the full purchase price shall immediately be paid to the United States Marshal. If the bid exceeds \$5,000, then the bidder shall immediately pay to the United States Marshal \$3,000 or 10% of the bid, whichever is greater, and shall pay the balance within three days after the day on which the bid was accepted. If an objection to the sale is filed within that three-day period, the bidder is excused from paying the balance of the purchase price until three court days after the sale is confirmed. Payment shall be made by certified check or by cashier’s check. Such check shall be made payable to the United States Marshal for the District of Maine.

For further information, contact Leonard W. Langer, Esq., 207-774-2500, or Darren LaPierre, 207-439-3810.