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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 UMPQUA BANK,

9 Plaintiff,

10 v.

11 ROBERT NEHRING, et al.,

12 Defendants.

C14-879 TSZ

ORDER

13 THIS MATTER comes before the Court on plaintiff Umpqua Bank's renewed
14 motion, docket no. 37, for default judgment against *in personam* defendant Robert
15 Nehring. Plaintiff was previously granted partial default judgment, docket no. 19,
16 pursuant to which the Preferred Mortgage on *in rem* defendant M/Y FANTA SEAS,
17 Official No. 1166172, was foreclosed and the vessel was ordered to be sold at public
18 auction. At the time such partial default judgment was entered, the amount remaining
19 due on the Promissory Note underlying the Preferred Mortgage at issue was \$120,417.27,
20 inclusive of interest as of December 9, 2014. The vessel was purchased at public auction
21 by a third party for \$20,250. *See* Process Receipt and Return (docket no. 20). Plaintiff
22 previously moved for default judgment against Nehring, seeking to use the net amount of
23

1 the auction proceeds (\$19,911.84) in calculating the deficiency owed by Nehring. The
2 Court denied the earlier motion because the record did not provide a basis for the Court to
3 confirm the public sale. See Minute Order (docket no. 36).

4 In connection with the renewed motion for default judgment now before the Court,
5 plaintiff has submitted a Marine Survey Report dated February 10, 2015, indicating that
6 the fair market value of the M/Y FANTA SEAS in its then current condition was between
7 \$40,000 and \$50,000. See Ex. A to Glowney Decl. (docket no. 38-1). Plaintiff proposes,
8 and the Court agrees, to use the midpoint of this range (\$45,000) in calculating the
9 deficiency owed by Nehring. Plaintiff, however, has computed the deficiency by
10 beginning with a different balance (i) than was stated in the partial default judgment
11 pursuant to which the M/Y FANTA SEAS was sold, and (ii) that is based in part on fees
12 and charges for which no documentary support has been provided. See Ex. C to Nichols
13 Decl. (docket no. 34).¹ The Court is not persuaded that plaintiff has accurately recited the
14 deficiency owed by Nehring.

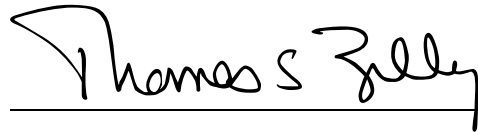
15 The Court calculates the amount of the deficiency by subtracting from the amount
16 remaining due at the time the Preferred Mortgage was foreclosed (\$120,417.27) the
17 estimated fair market value of the vessel at the time of its sale (\$45,000), and adding the
18 fees and costs associated with the public auction (\$3,523.13), see Minute Order at 1 n.1
19 (docket no. 26). Plaintiff will be awarded \$78,940.40, together with attorney's fees in the

21 ¹ Moreover, the total stated in Paragraph 9 of Nichols's declaration does not match the total shown in
22 Exhibit C of Nichols's declaration, and the amount listed in Exhibit C for moorage expenses (\$11,258) is
23 substantially more than the amount disclosed to the Court (\$1,458) in connection with plaintiff's motion
for disbursement of the net proceeds of the auction.

1 amount of \$20,595.00 and costs to be taxed in the manner set forth in Local Civil
2 Rule 54(d). Interest shall accrue at the annual rate set forth in 28 U.S.C. § 1961 from the
3 date on which plaintiff's renewed motion for default judgment was filed, March 4, 2016,
4 until paid in full. The Clerk is DIRECTED to enter default judgment consistent with this
5 Order in favor of plaintiff and against Nehring, to send a copy of this Order to all counsel
6 of record, as well as to Robert Nehring at 4727 136th Place SW, Edmonds, Washington
7 98026, and to close this case.

8 IT IS SO ORDERED.

9 Dated this 6th day of April, 2016.

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12 Thomas S. Zilly
13 United States District Judge
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