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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

RIVERBANK, a Washington State Chartered
Bank

Plaintiff,

v.

M/V ROCK A BYE, Official No. 1152013, her
engines, boilers, machinery, components, etc.,
in rem
and
JOHN GF HIEBER JR. and DEBRA A.
HIEBER, individually and on behalf of their
marital community, *in personam*

Defendants.

AT LAW AND IN ADMIRALTY

CASE NO. C18-387RSM

ORDER GRANTING MOTION TO
APPOINT SUBSTITUTE CUSTODIAN

Plaintiff has moved this Court for an Order Appointing Crow's Nest Yachts Substitute Custodian for the defendant vessel, ROCK A BYE, Official Number 1152013 ("Vessel"). The Court, having reviewed plaintiff's motion, the declaration of the proposed substitute custodian, and the affidavit of Daniel G. Byrne, President and Chief Executive Officer for plaintiff, the Court finds that:

- 1. The Vessel has been or will be arrested by the U.S. Marshal;
- 2. The Vessel is currently located at the Pacific Marine Center in Anacortes, Washington;
- 3. RiverBank is agreeable to allow Crow's Nest Yachts, through its Member Dale Partna, to assume the responsibility of safekeeping the Vessel and Crow's Nest Yachts, through its Member

ORDER FOR SUBSTIUTE CUSTODIAN - 1

{S1670546; 1 }



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1 Dale Partna, has consented to act the Vessel's custodian until further Order of the Court. Fees and
2 expenses to be charged by Crow's Nest Yachts will be substantially less than the cost of leaving
3 the Vessel in the custody of the United States Marshal.

4
5 4. The Substitute Custodian, Crow's Nest Yachts, has no interest in the outcome of the action
6 in which the Vessel is or will be under arrest;

7 5. No person except the Substitute Custodian and its agents will be allowed to enter the vessel
8 except as necessary to adequately safekeep and protect the vessel, and except as may be expressly
9 ordered by the Court;

10
11 6. The moving party and/or Substitute Custodian has obtained the insurance covered required
12 by the applicable statutes and rules;

13 7. The moving party agrees to release the United States and the United States Marshal from
14 any and all liability and responsibility arising out of the care and custody of the vessel, from the
15 time the Marshal transfers possession of the vessel to the Substitute Custodian until the vessel is
16 released or sold, and agrees to hold harmless and indemnify the United States and the United States
17 Marshal from any and all claims whatsoever arising out of the substitute custodian's possession
18 and safekeeping;

19
20 8. The proposed Substitute Custodian accepts appointment as Substitute Custodian and
21 possession of the Vessel and will safely keep the Vessel for the duration of the appointment as
22 Substitute Custodian.

23
24 THEREFORE, IT IS ORDERED that the United States Marshal for the Western District
25 of Washington be, and is authorized and directed, upon the seizure pursuant to the Warrant for
26 Arrest of said Vessel, her engines, machinery, tackle, furniture, apparel, appurtenances, and
27 equipment, etc., to surrender the custody thereof to Crow's Nest Yachts, through its Member Dale
28

ORDER FOR SUBSTIUTE CUSTODIAN - 2

{S1670546; 1 }

 **WITHERSPOON • KELLEY**
Attorneys & Counselors

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1 Partna, as Substitute Custodian, and that upon such surrender the United States Marshal shall be
2 discharged from all duties and responsibilities for the safekeeping of said Vessel and held harmless
3 from any and all claims arising out of its said custodial services.
4

5 IT IS FURTHER ORDERED that the Substitute Custodian shall see to and be responsible
6 for the safekeeping of the Vessel. Duties of the Substitute Custodian shall include, but are not
7 limited to, ensuring that there is safe, secure moorage for the Vessel. The Substitute Custodian is
8 not required to have a person live on board the Vessel, but an officer or authorized agent of the
9 Substitute Custodian shall go on board from time to time to carry out the duties of Substitute
10 Custodian. No other person shall be allowed to enter on the vessel except as provided for herein
11 or as otherwise expressly authorized by Order of this Court.
12

13 IT IS FURTHER ORDERED that the expenses outlined in the Substitute Custodian's
14 declaration shall be deemed administrative expenses of the United States Marshal.
15

16 DATED this 15th day of March, 2018.
17

18 

19 RICARDO S. MARTINEZ
20 CHIEF UNITED STATES DISTRICT JUDGE
21

22 Presented by:

23 WITHERSPOON · KELLEY
24

25 /s/ Michael D. Currin

26 MICHAEL D. CURRIN, WSBA # 14603
27 CASEY M. BRUNER, WSBA # 50168
28 PAMELA D. COMBO, WSBA # 53012
ATTORNEYS FOR PLAINTIFF RIVERBANK
WITHERSPOON KELLEY



WITHERSPOON · KELLEY
Attorneys & Counselors

ORDER FOR SUBSTIUTE CUSTODIAN - 3

{S1670546; 1 }

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ORDER FOR SUBSTIUTE CUSTODIAN - 4

{S1670546; 1 }



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