



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KPI BRIDGE OIL LTD.,

Plaintiff,

v.

M/V EVERGLORY (IMO 9628893), her tackle,
boilers, apparel, furniture, engines, appurtenances,
etc., *in rem*,

Defendant.

IN ADMIRALTY

CASE NO.: 3:15-CV-05851

**[PROPOSED] ORDER
APPOINTING MARINE LENDERS
SERVICES, LLC AS SUBSTITUTE
CUSTODIAN**

Having reviewed Plaintiff's Motion for the Appointment of a Substitute Custodian and the supporting Declaration of Buck Fowler, Jr., and good cause appearing,

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. Plaintiff's Motion is GRANTED.
2. Marine Lenders Services, LLC, is appointed to act as substitute custodian of the defendant vessel M/V EVERGLORY (IMO 9628893), her engines, tackle, gear, electronics, appurtenances, etc., (hereafter, the "Vessel") during *custodia legis* on behalf of this Court, in place and instead of the United States Marshal, until further order of the Court.
3. The Vessel has been or will be arrested by the United States Marshal. Immediately following arrest of the Vessel, the United States Marshal for this District shall

[PROPOSED] ORDER APPOINTING MARINE LENDERS SERVICES, LLC AS SUBSTITUTE CUSTODIAN - 1 (3:15-CV-05851)

LAW OFFICES OF
NICOLL BLACK & FEIG PLLC
1325 FOURTH AVENUE
SUITE 1650
SEATTLE, WASHINGTON 98101
(206) 838-7555

1 transfer custody of the Vessel to substitute custodian Marine Lender Services, LLC. The Vessel
2 is presently or will soon be located at the Port of Tacoma, and will remain in this location while
3 in the custody of the substitute custodian, except as provided for herein or as further ordered by
4 the Court.

5 4. Marine Lenders Services, LLC, as substitute custodian, shall see to and be
6 responsible for the safekeeping of the Vessel. The duties of the substitute custodian include, but
7 are not limited to, ensuring that there is an adequate, safe moorage for the vessel. The substitute
8 custodian is not required to have a person live on board the vessel, but an officer or authorized
9 agent of the substitute custodian shall go on board the vessel, from time to time to carry out the
10 duties of substitute custodian. No other person shall be allowed to enter on the vessel except as
11 provided for herein or as otherwise expressly authorized by order of this Court.

12 5. In consideration of the U.S. Marshal's consent to the appointment of Marine
13 Lenders Services, LLC as substitute custodian, plaintiff agrees to release the United States and
14 the U.S. Marshal from any and all liability and responsibility arising out of the care and custody
15 of the defendant vessel and its equipment, from the time the U.S. Marshal transfers custody of
16 the vessel over to the substitute custodian, and plaintiff further agrees to indemnify and hold the
17 United States and the U.S. Marshal harmless from any and all claims whatsoever arising out of
18 the substitute custodian's possession and safekeeping of the vessel.

19 6. All reasonable expenses of the United States Marshal shall be administrative
20 expenses in this action and a first charge to the Vessel herein, to be paid to the Marshal prior to
21 the release of the Vessel or distribution of the proceeds of its sale.

22 7. All reasonable expenditures which may be incurred by the plaintiff and the
23 substitute custodian, or by any party advancing funds to the substitute custodian, including, but
24 not limited to, all insurance, towage, transport, and other costs of moving the Vessel to a suitable
25 location, in safekeeping and maintaining the Vessel while it is in *custodia legis*, and costs of
26 maintaining adequate insurance on the vessel while it is in *custodia legis* shall be administrative

1 expenses in this action and a first charge on the Vessel, to be to be paid prior to the release of the
2 Vessel or distribution of the proceeds of its sale.

3 8. During *custodia legis*, Marine Lenders Services, LLC, shall maintain appropriate
4 legal liability insurance providing a maximum coverage of Two Million Dollars (US\$2,000,000),
5 which expenses for insurance shall constitute administrative expenses herein.

6 9. Upon transfer of the Vessel from the United States Marshal to Marine Lenders
7 Services, LLC, the Vessel may remain at her current location, or other suitable location,
8 including but not limited to the anchorage. Marine Lenders Services, LLC, shall notify the office
9 of the Marshal that the Vessel is to be moved and will notify the office of the Marshal again
10 when the Vessel has been moved.

11 10. Marine Lenders Services, LLC, as substitute custodian, may, if necessary, offload
12 any cargo aboard the Vessel and arrange for storage of the same at a suitable storage facility.
13 The substitute custodian shall notify the office of the U.S. Marshal prior to engaging in any such
14 offloading of cargo and again upon the completion of any such offloading.

15 11. Marine Lenders Services, LLC, as substitute custodian, may, if necessary, offload
16 any fuel and arrange for disposal of the same. The substitute custodian shall notify the office of
17 the U.S. Marshal prior to engaging in any such offloading and again upon the completion of any
18 such offloading.

19 12. Marine Lenders Services, LLC, as substitute custodian, may, but is not required
20 to, retain a marine engineer familiar with the Vessel and to take him or her on board the Vessel
21 with authorized agents of Marine Lenders Services, LLC to assist in the securing of the Vessel.

22 13. Marine Lenders Services, LLC, as substitute custodian, may, but is not required
23 to, retain such services as are necessary to clean the interior and/or exterior of the Vessel, remove
24 food products with such services to be performed under the supervision of the substitute
25 custodian.

1 14. Plaintiff shall arrange to pay charges for moorage of the vessel and the fees, costs,
2 and legal liability insurance premiums of the substitute custodian and shall reimburse the
3 substitute custodian for such other costs as may be incurred in conduction of the inventory of the
4 equipment on board, in securing the Vessel, in having the Vessel cleaned, in moving the Vessel,
5 and/or in offloading any cargo from the Vessel.

6 15. The substitute custodian may permit boarding and inspection of the defendant
7 vessel by marine surveyors, representatives of plaintiff, defendant and prospective purchaser's in
8 order to determine the vessel's condition and value at a date and time convenient to the substitute
9 custodian. All costs of such boardings and inspections shall be paid by such prospective and
10 third party purchasers directly to Marine Lenders Services, LLC prior to boarding; such expenses
11 shall not be deemed administrative costs in custodial herein. All persons entering on board the
12 vessel shall execute a waiver and release in the form attached hereto. The substitute custodian or
13 its employees shall be in attendance at all times of such boarding.

14 16. All crew members shall remain on board the defendant vessel and continue to
15 operate and maintain all ship systems pending further order of this Court.

16 17. During *custodia legis* the substitute custodian shall not permit repairs or changes
17 to be made to the Vessel, except for routine maintenance required for the Vessel's safekeeping,
18 or in emergency situations, without an order of this Court.

19 18. Plaintiff's attorney shall send a copy of this Order to the owner of the Vessel at
20 the last address known by Plaintiff.

21
22 DATED this 24th day of November, 2015.

23
24 
25 UNITED STATES DISTRICT JUDGE
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Presented by:

NICOLL BLACK & FEIG, PLLC

/s/ Jeremy B. Jones

Jeremy B. Jones, WSBA No. 44138
Shannon L. Trivett, WSBA No. 46689
Attorneys for Plaintiff