

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

COMPLEX BUSINESS LITIGATION  
DIVISION

In re:

CRYSTAL CRUISES, LLC, a California  
limited liability company,

Case No. 2022-002742-CA-01  
Lead Case

CRYSTAL HOLDINGS U.S., LLC, a  
Delaware limited liability company,

Case No. 2022-002757-CA-01

CRYSTAL AIRCRUISES, LLC, a Florida  
limited liability company, and

Case No. 2022-002758-CA-01

To: Assignors,

(Jointly Administered Cases)

MARK C. HEALY,

Assignee.

**ASSIGNEE'S MOTION TO (1) APPROVE SETTLEMENT AND  
RELEASE AGREEMENT WITH THE PENSION BENEFIT GUARANTY  
CORPORATION, (2) PAY RELATED ADMINISTRATIVE EXPENSE CLAIM,  
AND (3) AUTHORIZE THE ASSIGNEE TO EXECUTE AGREEMENT FOR  
TERMINATION OF PENSION PLAN AND OTHER DOCUMENTS**

**NOTICE OF OPPORTUNITY TO OBJECT  
TO CREDITORS AND OTHER INTERESTED PARTIES:**

**PLEASE TAKE NOTICE that, pursuant to Fla. Stat. § 727.111(4), the Assignee may enter into and consummate the settlement described herein, and the Court may consider these actions without further notice or hearing unless a party in interest files an objection within 21 days from the date this paper is served. If you object to the relief requested in this paper, you must file your objection with the Miami-Dade County Clerk of the Court at 73 W. Flagler Street, Room 133, Miami, FL 33130, and serve a copy on the Assignee's counsel, Paul Steven Singerman, Esq. and Samuel Jason Capuano, Esq., Berger Singerman LLP, 1450 Brickell Avenue, Suite 1900, Miami, FL 33131, and any other appropriate person. If you file and serve an objection within the time permitted, the Court shall schedule a hearing and notify you of the scheduled hearing. If you do not file an objection within the time permitted, the Assignee and the Court will presume that you do not oppose the granting of the relief requested in the paper.**

Mark C. Healy (the “Assignee”), solely in his capacity as the Assignee for the benefit of creditors of Crystal Cruises, LLC (“Crystal Cruises”), Crystal Holdings U.S., LLC (“Crystal Holdings”), and Crystal AirCruises, LLC (“Crystal AirCruises”) (collectively, the “Assignors”), by and through his undersigned counsel and pursuant to Florida Statutes §§ 727.102, 727.108(10), 727.109(1), (4), (7), and (15), 727.111(4), 727.114, and the Court’s *Order Granting Assignee’s Motion for Entry of an Order: (1) Approving Noticing Procedures, (2) Approving Proof of Claim Forms; and (3) Extending Deadline to Serve Notice of Assignment* (the “Notice Procedures Order”) entered on March 3, 2022, files this *Motion to (1) Approve Settlement and Release Agreement with the Pension Benefit Guaranty Corporation, (2) Pay Related Administrative Expense Claim, and (3) Authorize the Assignee to Execute Agreement for Termination of Pension Plan and Other Documents* (the “Motion”). In support of the Motion, the Assignee states:

### **Background**

1. On February 10, 2022, the Assignors executed and delivered, and the Assignee accepted, irrevocable assignments for the benefit of creditors to the Assignee (collectively, the “Assignments”). On February 11, 2022 (the “Petition Date”), a *Petition Commencing Assignment for the Benefit of Creditors* was filed by the Assignee for each of the Assignors, thereby commencing the following assignment for the benefit of creditors cases pursuant to Section 727 of the Florida Statutes, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida (the “Court”): *In re Crystal Cruises, LLC*, Case No. 2022-002742-CA-01, *In re Crystal Holdings U.S., LLC*, Case No. 2022-002757-CA-01, and *In re Crystal AirCruises, LLC*, Case No. 2022-002758-CA-01 (collectively, the “Assignment Cases”).

2. Prior to the Petition Date, the Assignors were engaged in the travel and entertainment business, including operating ocean, river, and expedition cruises and conducting related activities around the world.

3. Crystal Cruises sponsored the Crystal Cruises Pension Plan (“Plan”), which is a single-employer defined benefit pension plan as defined under ERISA.

4. On December 8, 2022, the Pension Benefit Guaranty Corporation (the “PBGC”)<sup>1</sup> issued a Notice of Determination determining: (1) that under 29 U.S.C. § 1342(a)(2) that the Plan would be unable to pay benefits when due; (2) that under 29 U.S.C. § 1342(c) the Plan must be terminated in order to protect the interest of the Plan’s participants; and (3) that PBGC intends to terminate the Plan establishing February 28, 2022, as the Plan’s termination date under 29 U.S.C. § 1348 and (4) that PBGC intends that PBGC be appointed statutory trustee of the Plan.

5. On December 9, 2022, PBGC issued to the Assignee an agreement (1) terminating the Plan under 29 U.S.C. § 1342(c); (2) establishing February 28, 2022, as the Plan’s termination date under 29 U.S.C. § 1348; and (3) appointing PBGC as statutory trustee of the Plan (the “Termination and Trusteeship Agreement”). PBGC requested Crystal Cruises execute the Termination and Trusteeship Agreement. The Termination and Trusteeship Agreement is attached hereto as **Exhibit “2.”**

6. On June 8, 2022, the PBGC submitted proofs of claim in each of the three Assignment Cases (collectively, the “PBGC Claims”), summarized as follows:

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<sup>1</sup> The PBGC is a wholly-owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. §§ 1301-1461. PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA.

<b>Assignor</b>	<b>Claim Amount</b>	<b>Summary of Basis for Claim</b>
Crystal Cruises	\$2,581,568.00	Statutory liability for unfunded benefit liabilities under 29 U.S.C. §§ 1362 & 1368.
Crystal Cruises	At least \$1,124,566.67	Statutory liability for pension insurance premiums under 29 U.S.C. §1307.
Crystal Cruises	Unliquidated	Statutory liability for unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430; 29 U.S.C. §§ 1082, 1342 and 1362(c).
Crystal Holdings	\$2,581,568.00	Statutory liability for unfunded benefit liabilities under 29 U.S.C. §§ 1362 & 1368.
Crystal Holdings	At least \$1,124,566.67	Statutory liability for pension insurance premiums under 29 U.S.C. §1307.
Crystal Holdings	Unliquidated	Statutory liability for unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430; 29 U.S.C. §§ 1082, 1342 and 1362(c).
Crystal AirCruises	\$2,581,568.00	Statutory liability for unfunded benefit liabilities under 29 U.S.C. §§ 1362 & 1368.
Crystal AirCruises	At least \$1,124,566.67	Statutory liability for pension insurance premiums under 29 U.S.C. §1307.
Crystal AirCruises	Unliquidated	Statutory liability for unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430; 29 U.S.C. §§ 1082, 1342 and 1362(c).

7. The PBGC has asserted that the PBGC Claims are entitled to priority payment in the Assignment Cases pursuant to Fla. Stat. §§ 727.114(1)(a) (*secured claims*); 727.114(1)(b) (*administrative expense claims*); 727.114(1)(c) (*governmental unit claims*), and 727.114(1)(d) (*claims for contributions to an employee benefit plan*), as well as a variety of federal statutes, as set forth in the *Statements in Support* attached to the PBGC Claims.

8. The Assignee disputes certain of the assertions in the PBGC Claims and has asserted various defenses and counterarguments.

### **The Settlement**

9. PBGC and pension related claims are complex and involve a number of legal and factual issues. To avoid the cost and uncertainty of litigation, the Assignee and the PBGC (collectively, the “Parties”) have negotiated a settlement (the “Settlement”) with respect to the disputes between them and have entered into the attached Settlement and Release Agreement (the

“Settlement Agreement”), attached hereto as **Exhibit “1,”** subject to this Court’s approval. The pertinent terms of the Settlement Agreement<sup>2</sup> are set forth below:

- A. The PBGC Claims shall be allowed against the Crystal Cruises estate only as follows:
  - i. One administrative expense claim pursuant to Fla. Stat. § 727.114(b) in the amount of \$150,000.00 (the “Administrative Expense Claim”); and
  - ii. One general unsecured claim pursuant to Fla. Stat. § 727.114(f) in the amount of \$3,000,000.00 (the “General Unsecured Claim”).
- B. The PBGC Claims shall be deemed withdrawn as to the Crystal Holdings and Crystal AirCruises estates.
- C. The Assignee shall seek Court approval of the Settlement Agreement and shall request authority to pay the Administrative Expense Claim within three business days after entry of a final, non-appealable order of the Court granting the motion to approve the Settlement Agreement (the “Settlement Approval Order”).
- D. The General Unsecured Claim shall be treated with all other general unsecured claims in the Crystal Cruises estate and paid in due course on a *pro rata* basis, if and when appropriate.
- E. The Assignee shall continue to reasonably cooperate with the PBGC, and seek authority from the Court to execute the Termination and Trusteeship Agreement and any other documents he deems necessary to reasonably cooperate with the PBGC.
- F. As a material inducement to the Assignee to enter into the Settlement Agreement, the PBGC, for good and valuable consideration received from the Assignee, the receipt of which is hereby acknowledged, hereby fully and forever release and discharge (“Release and Discharge”) the Assignee, the Assignors, and each of the Assignors’ estates, including each of their respective agents, representatives, partners, employees, and attorneys (collectively, the “Assignee Releasees”). “Release and Discharge” means any and all disputes, controversies, suits, actions, causes of action, claims, proofs of claim, liens, assessments, demands, debts, sums of money, damages, judgments, liabilities, and obligations of any kind whatsoever,

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<sup>2</sup> The following is a summary of the terms of the Settlement Agreement. The terms of the Settlement Agreement shall control, and creditors and parties-in-interest are urged to review the Settlement Agreement for its complete terms.

upon any legal or equitable theory (whether contractual, common law, statutory, federal, state, local, or otherwise), whether known or unknown and whether asserted or unasserted, that PBGC in any capacity ever had, now has, or hereafter can, will or may have against any Assignee Releasees by reason of any matter, cause, or thing whatsoever, relating in any way to the Plan. Notwithstanding anything in this Settlement Agreement to the contrary, or any other document filed in the Assignment Cases, nothing shall be construed to discharge, release, limit, or relieve the Assignee Releasees or any person or entity, in any capacity, from fiduciary breach related to the Plan or enjoin or prevent the Plan or PBGC from electing such liability from a liable person or entity.

G. The Parties agree that the Court shall retain jurisdiction to enforce the Settlement Agreement.

### **Relief Requested**

10. PBGC and pension claims in insolvency proceedings are complex. *See In re Rhodes, Inc.*, 382 B.R. 550, 554 (Bankr. N.D. Ga. 2008) (“The method used by PBGC in determining the amount of unfunded benefit liabilities is complicated.”); *In re Wolverine Proctor & Schwartz, LLC*, 2009 WL 1271953, at \*4 (Bankr. D. Mass. May 5, 2009), *aff’d sub nom. In re Wolverine, Proctor & Schwartz, LLC*, 436 B.R. 253 (D. Mass. 2010) (“Litigating the amount of the PBGC claims would be a lengthy and costly undertaking ...”)

11. This case is no different. The factual and legal issues involved in litigating the PBGC Claims would be substantial, complex, and expensive. Against that backdrop, the Assignee has negotiated the Settlement wherein the PBGC’s nine claims which were asserted to be either secured claims or priority claims in the millions of dollars were reduced to just one \$150,000 priority claim, with the \$3,000,000 balance as a general unsecured claim.

12. This Settlement frees up millions of dollars in estate funds for other priority claimants including employee wage claimants (pursuant to Fla. Stat. § 727.114(d)) and consumer deposit claimants (pursuant to Florida Stat. § 727.114(e)), who comprise the vast majority of the 12,000+ filed claims in these Assignment Cases.

13. The Assignee, in an exercise of his business judgment, believes that the Settlement is in the best interest of the estates and creditors. The Settlement is fair and reasonable, and the Assignee submits that the Court should approve the Settlement Agreement. Just like in *In re Wolverine Proctor & Schwartz, LLC*, where the court approved a bankruptcy trustee's settlement with the PBGC, the Assignee in this case has "evaluated the merits of the PBGC's various claims, achieved a sizable reduction in the amount of its priority claims, and avoided protracted and complex litigation with respect to the merits of the claims ... Accordingly, the Trustee's business judgment in seeking settlement over protracted, complex, and costly litigation is entitled to deference. This is particularly so in view of the competing public policies under ERISA and the Bankruptcy Code, namely the protection of employee benefits and the fair and equitable treatment of creditors' claims, respectively." *In re Wolverine Proctor & Schwartz, LLC*, 2009 WL 1271953 at \*4.

14. Pursuant to Fla. Stat. 727.109(7), the Court has the power to "hear and determine a motion brought by the assignee for approval of ... the compromise or settlement of a controversy ..." Further, the Court has the power to "[a]llow or disallow claims against the estate and determine their priority ..." and the Court is authorized to "[e]xercise any other powers that are necessary to enforce or carry out the provisions of this chapter." Fla. Stat. § 727.109(4) and (15).

15. Although Chapter 727 provides for court approval of settlements proposed by an assignee, the statutes do not set forth any specific criteria for approving settlements. The Assignee submits that analogous bankruptcy principles should guide this Court's evaluation of the Settlement Agreement. "State courts often look to federal bankruptcy law for guidance as to legal issues arising in proceedings involving assignments for the benefit of creditors." *Moecker v. Antoine*, 845 So. 2d 904, 911 n. 10 (Fla. 1st DCA 2003).

16. It is generally recognized that the law favors compromise of disputes over litigation. *In re Bicoastal Corp.*, 164 B.R. 1009, 1016 (Bankr. M.D. Fla. 1993). In *In re Justice Oaks II, Ltd.*, 898 F.2d 1544, 1549 (11th Cir. 1990), the court enunciated certain factors which must be considered in determining whether to approve a compromise. These factors include the following: (a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises. *Id.*

17. The terms of the Settlement satisfy the above *Justice Oaks* factors. The first factor – the probability of success in litigation – weighs in favor of approval. The PBGC has submitted nine proofs of claim citing dozens of federal statutes as support for its claims and their priority and secured status. While the Assignee asserts he would prevail in his objections to the PBGC Claims, there is always risk in litigation. The second factor – the difficulties to be encountered in the matter of collection – is neutral, as the Assignee is settling claims against the Assignors’ estates. The third factor – the complexity, expense, inconvenience, and delay of the litigation – also weighs heavily in favor of approval. As indicated, *supra*, litigation of PBGC and pension related claims are complex and expensive, and continued litigation would result in precious estate resources being siphoned towards fact-intensive litigation, expert fees, and potentially a trial. Lastly, the Settlement is in the best interest of creditors, freeing up millions of dollars for other priority claimants like employee wage creditors and consumer deposit creditors, as it preserves the estate’s resources and avoids costly, protracted litigation with the PBGC.



18. Additionally, the Assignee seeks authority to execute the Termination and Trusteeship Agreement and any other documents he deems necessary to reasonably cooperate with the PBGC.

**WHEREFORE**, the Assignee respectfully requests the Court enter an Order, in the form attached hereto as **Exhibit "3"**, (i) granting this Motion; (ii) approving the Settlement Agreement in its entirety; (iii) authorizing the Assignee to pay the Administrative Expense Claim within three business days after the Settlement Approve Order becomes final and non-appealable; (iv) authorizing the Assignee to execute the Termination and Trusteeship Agreement, as well as any other documents he deems necessary to reasonably cooperate with the PBGC; and (v) granting such other and further relief as the Court deems just and proper.

Dated: January 12, 2023

BERGER SINGERMAN LLP  
*Co-Counsel for Assignee*  
1450 Brickell Avenue, Suite 1900  
Miami, FL 33131  
Telephone: (305) 755-9500  
Facsimile: (305) 714-4340

By: /s/ Samuel J. Capuano  
Paul Steven Singerman  
Florida Bar No. 378860  
singerman@bergersingerman.com  
Samuel J. Capuano  
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scapuano@bergersingerman.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY a true and correct copy of the foregoing was served via the Florida Court's e-Filing Portal on January 12, 2023 to all parties that have entered an appearance in this case; on counsel for the Assignors, Adam Losey, Esq., Losey PLLC, 1420 Edgewater Drive, Orlando, FL 32804, via email to [alosey@losey.law](mailto:alosey@losey.law); via email to [cbl44@jud11.flcourts.org](mailto:cbl44@jud11.flcourts.org) pursuant to CBL Rule 2.2; and via e-mail to all creditors and interested parties on the e-mail service list pursuant to the Notice Procedures Order.

By: /s/ Samuel J. Capuano  
Samuel J. Capuano

**EXHIBIT 1**  
**(Settlement Agreement)**

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

COMPLEX BUSINESS LITIGATION  
DIVISION

In re:

CRYSTAL CRUISES, LLC, a California  
limited liability company,

Case No. 2022-002742-CA-01  
Lead Case

CRYSTAL HOLDINGS U.S., LLC, a  
Delaware limited liability company,

Case No. 2022-002757-CA-01

CRYSTAL AIRCRUISES, LLC, a Florida  
limited liability company, and

Case No. 2022-002758-CA-01

To: Assignors,

(Jointly Administered Cases)

MARK C. HEALY,

Assignee.

**SETTLEMENT AND RELEASE AGREEMENT**

This *Settlement and Release Agreement* (“Settlement Agreement”) is made and entered into on this 11<sup>th</sup> day of January, 2023, by and among Mark C. Healy (the “Assignee”), solely in his capacity as the Assignee for the benefit of creditors of Crystal Cruises, LLC (“Crystal Cruises”), Crystal Holdings U.S., LLC (“Crystal Holdings”), and Crystal AirCruises, LLC (“Crystal AirCruises”) (collectively, the “Assignors”), on the one hand, and the Pension Benefit Guaranty Corporation (“PBGC”), on the other hand. The Assignee and the PBGC may be referred to individually as a “Party” and together as “Parties.”

**RECITALS:**

WHEREAS, on February 10, 2022, the Assignors executed and delivered, and the Assignee accepted, irrevocable assignments for the benefit of creditors to the Assignee (collectively, the “Assignments”). On February 11, 2022 (the “Petition Date”), a *Petition Commencing Assignment for the Benefit of Creditors* was filed by the Assignee for each of the Assignors, thereby commencing the following assignment for the benefit of creditors cases pursuant to Section 727 of the Florida Statutes, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida (the “Court”): *In re Crystal Cruises, LLC*, Case No. 2022-002742-CA-01, *In re Crystal Holdings U.S., LLC*, Case No. 2022-002757-CA-01, and *In re Crystal AirCruises, LLC*, Case No. 2022-002758-CA-01 (collectively, the “Assignment Cases”);

WHEREAS, each of the Assignors is an indirect subsidiary of the ultimate corporate parent company Genting Hong Kong Limited, which is the subject of its own pending insolvency proceeding in Bermuda;

WHEREAS, prior to the Petition Date, the Assignors were engaged in the travel and entertainment business, including operating ocean, river, and expedition cruises and conducting related activities around the world;

WHEREAS, the PBGC is a wholly-owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended* (“ERISA”), 29 U.S.C. §§ 1301-1461. PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA;

WHEREAS, Crystal Cruises sponsored the Crystal Cruises Pension Plan (“Plan”), which is a single-employer defined benefit pension plan as defined under ERISA;

WHEREAS, on December 8, 2022 PBGC issued a Notice of Determination determining: (1) that under 29 U.S.C. § 1342(a)(2) that the Plan would be unable to pay benefits when due; (2) that under 29 U.S.C. § 1342(c) the Plan must be terminated in order to protect the interest of the Plan’s participants; and (3) that PBGC intends to terminate the Plan establishing February 28, 2022, as the Plan’s termination date under 29 U.S.C. § 1348 and (4) that PBGC intends that PBGC be appointed statutory trustee of the Plan;

WHEREAS, on December 9, 2022, PBGC issued to the Assignee an agreement (1) terminating the Plan under 29 U.S.C. § 1342(c); (2) establishing February 28, 2022, as the Plan’s termination date under 29 U.S.C. § 1348; and (3) appointing PBGC as statutory trustee of the Plan (the “Termination and Trusteeship Agreement”). PBGC requested the Assignee execute the Termination and Trusteeship Agreement;

WHEREAS, on June 8, 2022, the PBGC submitted proofs of claim in each of the three Assignment Cases (collectively, the “PBGC Claims”), summarized as follows:

<b>Assignor</b>	<b>Claim Amount</b>	<b>Summary of Basis for Claim</b>
Crystal Cruises	\$2,581,568.00	Statutory liability for unfunded benefit liabilities under 29 U.S.C. §§ 1362 & 1368.
Crystal Cruises	At least \$1,124,566.67	Statutory liability for pension insurance premiums under 29 U.S.C. §1307.
Crystal Cruises	Unliquidated	Statutory liability for unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430; 29 U.S.C. §§ 1082, 1342 and 1362(c).
Crystal Holdings	\$2,581,568.00	Statutory liability for unfunded benefit liabilities under 29 U.S.C. §§ 1362 & 1368.
Crystal Holdings	At least \$1,124,566.67	Statutory liability for pension insurance premiums under 29 U.S.C. §1307.

Crystal Holdings	Unliquidated	Statutory liability for unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430; 29 U.S.C. §§ 1082, 1342 and 1362(c).
Crystal AirCruises	\$2,581,568.00	Statutory liability for unfunded benefit liabilities under 29 U.S.C. §§ 1362 & 1368.
Crystal AirCruises	At least \$1,124,566.67	Statutory liability for pension insurance premiums under 29 U.S.C. §1307.
Crystal AirCruises	Unliquidated	Statutory liability for unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430; 29 U.S.C. §§ 1082, 1342 and 1362(c).

WHEREAS, the PBGC has asserted that the PBGC Claims are entitled to priority payment in the Assignment Cases pursuant to Fla. Stat. §§ 727.114(1)(a) (*secured claims*); 727.114(1)(b) (*administrative expense claims*); 727.114(1)(c) (*governmental unit claims*), and 727.114(1)(d) (*claims for contributions to an employee benefit plan*), as well as a variety of federal statutes, as is set forth in the *Statements in Support* attached to the PBGC Claims;

WHEREAS, the Assignee disputes certain of the assertions in the PBGC Claims and has asserted various defenses and counterarguments;

WHEREAS, in order to avoid the expense, delay, and risk of litigation concerning the PBGC Claims, the Parties have participated in extended and good faith settlement negotiations, and have reached a settlement of the PBGC Claims;

WHEREAS, the Parties desire to enter into this Settlement Agreement to provide for the final compromise, resolution and settlement of any and all claims and disputes between and among the PBGC and the Assignee, Assignors, and their estates, including, but not limited to, those with respect to the PBGC claims, the Assignment Cases, the Plan, and the termination and trusteeship of the Plan;

NOW, THEREFORE, in consideration of the promises and the mutual covenants of the Parties stated in this Settlement Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties represent, warrant, consent, and agree as follows:

1. **Adoption of Recitals.** The above recitals are true and correct, are incorporated herein by this reference, and constitute a part of this Settlement Agreement.

2. **Settlement Terms:** As full and final settlement of the PBGC Claims, subject to the conditions set forth in this Settlement Agreement, the Parties agree as follows:

A. The PBGC Claims shall be allowed against the Crystal Cruises estate only as follows:

- i. One administrative expense claim pursuant to Fla. Stat. § 727.114(b) in the amount of \$150,000.00 (the “Administrative Expense Claim”); and
  - ii. One general unsecured claim pursuant to Fla. Stat. § 727.114(f) in the amount of \$3,000,000.00 (the “General Unsecured Claim”).
- B. The PBGC Claims shall be deemed withdrawn as to the Crystal Holdings and Crystal AirCruises estates.
- C. The Assignee shall seek Court approval of this Settlement Agreement and shall request authority to pay the Administrative Expense Claim within three business days after entry of a final, non-appealable order of the Court granting the motion to approve this Settlement Agreement (the “Settlement Approval Order”).
- D. The General Unsecured Claim shall be treated with all other general unsecured claims in the Crystal Cruises estate and paid in due course on a *pro rata* basis, if and when appropriate.
- E. The Assignee shall continue to reasonably cooperate with the PBGC, and the Assignee shall seek authority from the Court to execute the Termination and Trusteeship Agreement and any other documents he deems necessary to reasonably cooperate with the PBGC.
- F. As a material inducement to the Assignee to enter into this Settlement Agreement, the PBGC, for good and valuable consideration received from the Assignee, the receipt of which is hereby acknowledged, hereby fully and forever release and discharge (“Release and Discharge”) the Assignee, the Assignors, and each of the Assignors’ estates, including each of their respective agents, representatives, partners, employees, and attorneys (collectively, the “Assignee Releasees”). “Release and Discharge” means any and all disputes, controversies, suits, actions, causes of action, claims, proofs of claim, liens, assessments, demands, debts, sums of money, damages, judgments, liabilities, and obligations of any kind whatsoever, upon any legal or equitable theory (whether contractual, common law, statutory, federal, state, local, or otherwise), whether known or unknown and whether asserted or unasserted, that PBGC in any capacity ever had, now has, or hereafter can, will or may have against any Assignee Releasees by reason of any matter, cause, or thing whatsoever, relating in any way to the Plan. Notwithstanding anything in this Settlement Agreement to the contrary, or any other document filed in the Assignment Cases, nothing shall be construed to discharge, release, limit, or relieve the Assignee Releasees or any person or entity, in any capacity, from fiduciary breach related to the Plan or enjoin or prevent the Plan or PBGC from electing such liability from a liable person or entity.
- G. The Parties agree that the Court shall retain jurisdiction to enforce this Settlement Agreement.

3. **Conditions Precedent.** This Settlement Agreement is subject to and conditioned upon the entry of the Settlement Approval Order and upon the Settlement Approval Order becoming final and non-appealable. In the event that the Court does not approve this Settlement Agreement, nothing herein shall be deemed a representation or admission by any Party as to any issue, and the Parties shall be returned to the status quo prior to the entry into this Settlement Agreement.

4. **Attorney Representation.** Each Party warrants and represents that it is entering into this Settlement Agreement voluntarily, and without any duress or undue influence. Each Party further represents that it was represented by legal counsel in connection with the negotiation and execution of this Settlement Agreement.

5. **Entire Agreement.** This Settlement Agreement constitutes the sole and entire settlement and release agreement between the Parties and supersedes all prior and contemporaneous statements, promises, understandings, or agreements, whether written or oral. Each Party acknowledges that no promise or inducement has been offered except as set forth herein and that this Settlement Agreement has been executed after each of the Parties has made an independent investigation of the facts and has had the opportunity to rely upon the legal knowledge and advice of attorneys in executing this Settlement Agreement.

6. **Headings and Captions.** The headings and captions used herein are used for the convenience in reading this Settlement Agreement and are not of separate effect and shall not alter or elaborate on, or be used to interpret, the terms of the Settlement Agreement.

7. **Amendments.** This Settlement Agreement may not be amended, modified, or altered unless such amendment is in writing and signed by all Parties.

8. **Cooperation and Best Efforts.** The Parties hereto agree to cooperate fully in the execution of any documents or performance in any way which may be reasonably necessary to carry out the purposes of this Settlement Agreement and to effectuate the intent of the Parties hereto, and the Parties shall use their best efforts to obtain Court approval of the Settlement Agreement.

9. **Applicable Law.** This Settlement Agreement shall be deemed to be made and entered into in the State of Florida and shall in all respects be interpreted, enforced, and governed under the laws of Florida, without giving effect to any conflict of laws principles.

10. **Authority.** Subject to approval of the Court, the individuals executing this Settlement Agreement on behalf of the Parties have the full power and lawful authority to execute and deliver this Settlement Agreement, to perform the obligations hereunder, and to consummate the transactions contemplated hereby, as well as all of the other documents executed or delivered, or to be executed or delivered, by the Parties in connection herewith. The execution and delivery of this Settlement Agreement by the Parties and the consummation by the Parties of the transactions contemplated hereby have been duly and validly authorized by all necessary



governmental or corporate action on the part of the Parties and no other proceedings are necessary to authorize this Settlement Agreement or to consummate the transactions contemplated hereby.

11. **No Adverse Construction.** The Parties acknowledge that this Settlement Agreement has been prepared by each of them. In the event any part of this Settlement Agreement is found to be ambiguous, such ambiguity shall not be construed against any Party.

12. **Attorneys' Fees, Costs, and Expenses.** Each Party shall bear and be responsible for any and all fees, costs, and expenses incurred by such Party in connection with the negotiation and consummation of this Settlement Agreement.

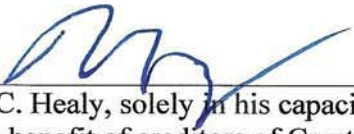
13. **Waiver.** The failure of either Party to enforce any provision or provisions of this Settlement Agreement shall not in any way be construed as a waiver of any such provision or provisions as to any future violations thereof, nor prevent that Party thereafter from enforcing each and every other provision of this Settlement Agreement. The rights granted the Parties herein are cumulative and the waiver of any single remedy shall not constitute a waiver of such party's right to assert all other legal remedies available to it under the circumstances.

14. **Counterparts.** This Settlement Agreement may be signed and executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one Settlement Agreement. Delivery of an executed counterpart of a signature page of this Settlement Agreement by facsimile or email shall be effective as delivery of an originally executed counterpart of this Settlement Agreement.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ACCEPTED AND AGREED:

  
\_\_\_\_\_  
Mark C. Healy, solely in his capacity as the Assignee  
for the benefit of creditors of Crystal Cruises, LLC,  
Crystal Holdings U.S., LLC, and Crystal AirCruises,  
LLC

**Adi Berger**  
Digitally signed by Adi  
Berger  
Date: 2023.01.09 16:35:45  
-05'00'

\_\_\_\_\_  
Pension Benefit Guaranty Corporation

By: \_\_\_\_\_

Title: Director, Corporate Finance & Restructuring Department  
\_\_\_\_\_

**EXHIBIT 2**  
**(Termination and Trusteeship Agreement)**

**AGREEMENT FOR APPOINTMENT OF  
TRUSTEE AND TERMINATION OF PLAN**

This is an AGREEMENT between the Pension Benefit Guaranty Corporation (“PBGC”) and Crystal Cruises LLC (“Company”).

**RECITALS:**

- A. PBGC is a United States government agency established by Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§1301-1461 (“ERISA”).
- B. The Company is a limited liability company organized under the laws of California, with its principal place of business located in Miami, Florida.
- C. The Company maintains the Crystal Cruises Pension Plan (“Plan”) to provide retirement benefits for certain of its employees. The Plan was established effective July 1, 1989.
- D. The Plan is an employee pension benefit plan to which 29 U.S.C. § 1321(a) applies and is not exempt under 29 U.S.C. § 1321(b). The Plan is therefore covered by Title IV of ERISA.
- E. The Company is the administrator of the Plan within the meaning of 29 U.S.C. §§ 1002(16) and 1301(a)(1).
- F. The Company ceased operations and, on February 11, 2022, the Company commenced an assignment for the benefit of creditors in the Circuit Court for the

Eleventh Judicial Circuit in Miami-Dade County, Florida, Consolidated Main Case Number 22-002742-CA-01. Mr. Mark C. Healy of Michael of Moecker & Associates, Inc., was appointed as assignee for the benefit of creditors of the Company.

G. On February 28, 2022, the Company was a contributing sponsor of the Plan within the meaning of 29 U.S.C. § 1301(a)(13).

H. PBGC has issued to the Company, c/o Mr. Mark C. Healy, a Notice of Determination under 29 U.S.C. § 1342(a) that the Plan will be unable to pay benefits when due; , and that the Plan should be terminated under 29 U.S.C. § 1342(c).

**NOW THEREFORE, the parties agree:**

1. The Plan is terminated under 29 U.S.C. § 1342(c).
2. The Plan termination date is February 28, 2022, under 29 U.S.C. § 1348.
3. PBGC is appointed trustee of the Plan under 29 U.S.C. § 1342 (c).
4. Any other person having possession or control of any records, assets or other property of the Plan shall convey and deliver to PBGC any such records, assets or property in a timely manner. PBGC reserves all its rights to pursue such records, assets, and other property by additional means, including but not limited to issuance of administrative subpoenas under 29 U.S.C. § 1303.
5. PBGC will have, with respect to the Plan, all of the rights and powers of a trustee specified in ERISA or otherwise granted by law.

The persons signing this Agreement are authorized to do so. The Agreement will take effect on the date the last person signs below.

Crystal Cruises LLC, Plan Administrator

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Mark C. Healy, Assignee

PENSION BENEFIT GUARANTY CORPORATION

Dated: \_\_\_\_\_ By: \_\_\_\_\_

**EXHIBIT 3**  
**(Proposed Order)**

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

COMPLEX BUSINESS LITIGATION  
DIVISION

In re:

CRYSTAL CRUISES, LLC, a California  
limited liability company,

Case No. 2022-002742-CA-01  
Lead Case

CRYSTAL HOLDINGS U.S., LLC, a  
Delaware limited liability company,

Case No. 2022-002757-CA-01

CRYSTAL AIRCRUISES, LLC, a Florida  
limited liability company, and

Case No. 2022-002758-CA-01

To: Assignors,

(Jointly Administered Cases)

MARK C. HEALY,

Assignee.

**ORDER GRANTING ASSIGNEE'S MOTION TO (1) APPROVE SETTLEMENT  
AND RELEASE AGREEMENT WITH THE PENSION BENEFIT GUARANTY  
CORPORATION, (2) PAY RELATED ADMINISTRATIVE EXPENSE CLAIM,  
AND (3) AUTHORIZE THE ASSIGNEE TO EXECUTE AGREEMENT FOR  
TERMINATION OF PENSION PLAN AND OTHER DOCUMENTS**

**THIS MATTER** came before the Court upon the *Assignee's Motion to (1) Approve Settlement and Release Agreement with the Pension Benefit Guaranty Corporation, (2) Pay Related Administrative Expense Claim, and (3) Authorize the Assignee to Execute Agreement for Termination of Pension Plan and Other Documents* (the "Motion") filed on January 11, 2023 by Mark C. Healy (the "Assignee"), solely in his capacity as the Assignee for the benefit of creditors of Crystal Cruises, LLC ("Crystal Cruises"), Crystal Holdings U.S., LLC ("Crystal Holdings"), and Crystal AirCruises, LLC ("Crystal AirCruises") (collectively, the "Assignors"). The Court, having reviewed the Motion and the record in this case, finding that notice of the Motion was



properly served on interested parties as required by Fla. Stat. § 727.111(4), noting that no objection to the Motion was filed by any party, finding that the relief requested in the Motion is in the best interests of the estates of the Assignors (the “Assignment Estates”), and otherwise finding that good and sufficient cause exists for granting the relief set forth herein, does hereby

**ORDER AND ADJUDGE** that:

1. All terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

2. The Motion is **GRANTED**.

3. The Settlement Agreement and all terms and conditions thereof are authorized and approved in all respects.

4. The PBGC Claims shall be allowed against the Crystal Cruises estate only as follows: (a) one administrative expense claim pursuant to Fla. Stat. § 727.114(b) in the amount of \$150,000.00 (the “Administrative Expense Claim”); and (b) one general unsecured claim pursuant to Fla. Stat. § 727.114(f) in the amount of \$3,000,000.00 (the “General Unsecured Claim”).

5. The PBGC Claims are deemed withdrawn as to the Crystal Holdings and Crystal AirCruises estates.

6. The Assignee is authorized to pay the Administrative Expense Claim within three business days after this order becomes final and non-appealable. The General Unsecured Claim shall be treated with all other general unsecured claims in the Crystal Cruises estate and paid in due course on a *pro rata* basis, if and when appropriate.

7. The Assignee is authorized to execute the Termination and Trusteeship Agreement, and the Assignee is authorized, empowered, and directed to execute any other documents he deems necessary to reasonably cooperate with the PBGC.

8. The Court shall retain jurisdiction to enforce this Order and the Agreement.

**DONE AND ORDERED** in Chambers at Miami-Dade County, Florida on

\_\_\_\_\_, 2023.

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Hon. Alan S. Fine  
CIRCUIT COURT JUDGE