

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

Assignors,
To:

(Jointly Administered Cases)

MARK C. HEALY,

Assignee.

**ASSIGNEE'S MOTION TO (1) APPROVE SETTLEMENT WITH MERIJN
MOELIKER IN HIS CAPACITY AS THE DUTCH BANKRUPTCY TRUSTEE
OF CRYSTAL RIVER CRUISES OPERATIONS COOPERATIEF U.A. RELATING
TO PROCEEDS FROM THE SALE OF WINE AND OTHER BEVERAGES ON
BOARD CERTAIN RIVER SHIPS, AND (2) AUTHORIZE THE ASSIGNEE TO
EXECUTE A LIMITED RELEASE OF THE JOINT PROVISIONAL LIQUIDATORS
OF GENTING HONG KONG LIMITED AS CUSTODIANS OF SUCH PROCEEDS**

**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, 727.109(1), (7), and (15), and 727.111(4), 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 (the “Motion”) for entry of an order (1) approving a settlement reached between the Assignee and Merijn Moeliker (the “Dutch Trustee”), in his capacity as the Dutch bankruptcy trustee of Crystal River Cruises Operations Cooperatief U.A. (“Crystal River Cooperatief”), relating to Sale Proceeds (defined herein) from the sale by the JPLs (defined herein) of wine and other beverages (the “Beverages”) on board certain Crystal Cruises river ships in Europe on or around March 20, 2022, and (2) authorizing, but not directing, the Assignee to execute a limited release of certain joint provisional liquidators of Genting Hong Kong Limited (“GHK”) at Alvarez & Marsal Asia Limited (the “JPLs”) solely in their capacity as custodians of such Sale Proceeds, and only to the extent such limited release is limited to matters relating to the Sale Proceeds and the Beverages and is required to consummate the settlement. In support of the Motion, the Assignee states:

Background and Settlement

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. On or around March 20, 2022, GHK, the ultimate parent company of the Assignors, through its JPLs, liquidated the Beverages via an independent auction house. In connection with such liquidation, the JPLs are currently holding approximately €204,284.85 (the “Sale Proceeds”). The JPLs make no claim to Beverages or the Sale Proceeds, and are currently acting as custodians of the Sale Proceeds.

4. The Assignee asserts that certain of the Beverages and the Sale Proceeds are property of the Crystal Cruises estate.

5. The Dutch Trustee asserts that certain of the Beverages and the Sale Proceeds are property of the Crystal River Cooperatief estate.

6. Following several months of discussions and negotiations, to avoid the cost and uncertainty of litigation, the Assignee and the Dutch Trustee (collectively, the “Parties”) have negotiated a settlement (the “Settlement”) with respect to the Beverages and the Sale Proceeds, subject to this Court’s approval and the approval of the Supervisory Judge in the Crystal River Cooperatief bankruptcy case in the Netherlands.

7. The Parties have agreed to split the Sale Proceeds evenly between the Crystal Cruises estate and the Crystal River Cooperatief estate.

Relief Requested

8. The Assignee, in an exercise of his business judgment, believes that the Settlement is in the best interest of the Crystal Cruises estate and creditors. The Settlement is fair and reasonable, and the Assignee submits that the Court should approve the Settlement Agreement.

9. Pursuant to Fla. Stat. 727.109(7) and (15), 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 ...” and the Court is authorized to “[e]xercise any other powers that are necessary to enforce or carry out the provisions of this chapter.”

10. 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).

11. 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.*

12. 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. While the Assignee asserts he would prevail in litigation over the ownership of the Beverages and the Sale Proceeds, there is always risk in litigation. The second factor – the difficulties to be encountered in the matter of collection – weighs in favor of approval. The dispute is with a foreign fiduciary and the Sale Proceeds are being held by a foreign liquidator, complicating collection efforts. The third factor – the complexity, expense, inconvenience, and delay of the litigation – also weighs in favor of approval. Continued litigation over the Sale Proceeds with the Dutch Trustee could inevitably cost the estate more than the amount of Sale Proceeds, and would result in precious estate resources being siphoned towards fact-intensive litigation and potentially a trial. Lastly, the Settlement is in the best interest of creditors as it preserves the estate’s resources and avoids costly, protracted litigation, and brings funds into the estate.

13. Additionally, the Assignee seeks authority to execute a limited release of the JPLs solely in their capacity as custodians of the Sale Proceeds, and only to the extent such limited release is limited to the Sale Proceeds and the Beverages and is required to consummate the Settlement. For the avoidance of doubt, the Assignee does not seek authority to execute a release of the JPLs for any claims unrelated to the Beverages and Sale Proceeds.

WHEREFORE, the Assignee respectfully requests the Court enter an Order, in the form attached hereto as **Exhibit “1”**, (i) granting this Motion; (ii) approving the Settlement in its entirety; (iii) authorizing, but not directing, the Assignee to execute a limited release of the JPLs solely in their capacity as custodians of the Sale Proceeds, and only to the extent such limited

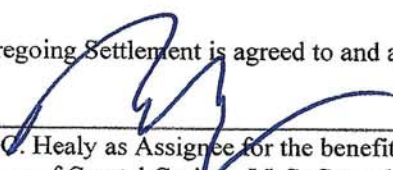
release is limited to the Sale Proceeds and the Beverages and is required to consummate the Settlement; and (iv) granting such other and further relief as the Court deems just and proper.

Dated: May 1, 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
Florida Bar No. 90946
scapuano@bergersingerman.com

The foregoing Settlement is agreed to and accepted by:



Mark C. Healy as Assignee for the benefit of
creditors of Crystal Cruises, LLC, Crystal
Holdings U.S., LLC, and Crystal AirCruises,
LLC

Date: 5/2/2023



Merijn Moeliker, as the Dutch bankruptcy
trustee of Crystal River Cruises Operations
Cooperatief U.A.

Date: 02/05/2023

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 May 2, 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; via email to 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
(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

Assignors,
To:

(Jointly Administered Cases)

MARK C. HEALY,

Assignee.

**ORDER GRANTING ASSIGNEE’S MOTION TO (1) APPROVE SETTLEMENT WITH
MERIJN MOELIKER IN HIS CAPACITY AS THE DUTCH BANKRUPTCY TRUSTEE
OF CRYSTAL RIVER CRUISES OPERATIONS COOPERATIEF U.A. RELATING
TO PROCEEDS FROM THE SALE OF WINE AND OTHER BEVERAGES ON
BOARD CERTAIN RIVER SHIPS, AND (2) AUTHORIZE THE ASSIGNEE TO
EXECUTE A LIMITED RELEASE OF THE JOINT PROVISIONAL LIQUIDATORS
OF GENTING HONG KONG LIMITED AS CUSTODIANS OF SUCH PROCEEDS**

THIS MATTER came before the Court upon the *Assignee’s Motion to (1) Approve Settlement with Merijn Moeliker in His Capacity as the Dutch Bankruptcy Trustee of Crystal River Cruises Operations Cooperatief U.A. Relating to Proceeds from the Sale of Wine and Other Beverages On Board Certain River Ships, and (2) Authorize the Assignee to Execute a Limited Release of the Joint Provisional Liquidators of Genting Hong Kong Limited as Custodians of Such Proceeds* (the “Motion”) filed on _____, 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) 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, 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 and all terms and conditions thereof are authorized and approved in all respects.
4. The Assignee is authorized, but not directed, to execute a limited release of the JPLs solely in their capacity as custodians of the Sale Proceeds, and only to the extent such limited release is limited to the Sale Proceeds and the Beverages and is required to consummate the Settlement.
5. The Court shall retain jurisdiction to enforce this Order and the Agreement.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida on _____, 2023.

CIRCUIT COURT JUDGE