

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

In re:

COMPLEX BUSINESS LITIGATION
DIVISION

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 APPROVE PAYMENT TO CRYSTAL ACQUISITION
COMPANY LIMITED**

**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 N. Mascia, Esq., 135 W. Central Blvd., Ste. 300, Orlando, Florida 32801, 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”) (the “Assignor”), 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, files this *Motion to Approve Payment to Crystal Acquisition Company, Ltd.* (the “Motion”). In support of the Motion, the Assignee states:

Background

1. On February 10, 2022, the Assignor 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 Assignor and two of its affiliates, 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**”, with the other assignors referred to with the Assignor as the “**Assignors**”), which Assignment Cases were consolidated administratively into the Assignor’s Assignment Case (the “**Assignment Case**”).

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. CSHV Wilshire Landmark, LLC (“**CSHV**”) is a California limited liability company that owns real property in the State of California (the “**Property**”).

4. CSHV and the Assignor entered into an office lease agreement on May 28, 2013 (the “**Original Lease**”) for the lease of certain premises (the “**Premises**”) consisting of approximately 35,920 rentable square feet in that certain building (the “**Building**”) with an address of 11755 Wilshire Boulevard, Los Angeles, California. 90025 commonly known and identified as 11755 Wilshire, as follows: (i) approximately 17,960 rentable square feet known as Suite 800 (“**Suite 800**”) and comprising the eighth (8th) floor of the Building, and (ii) approximately 17,960 rentable square feet known as Suite 900 (“**Suite 900**”) and comprising the ninth (9th) floor of the Building.

5. The Original Lease was amended four separate times with the last amendment occurring on May 14, 2021 (the “**Fourth Amendment**”) and together with the Original Lease and all prior amendments, the “**Lease**”) and CSHV, as the landlord, consented to two separate subleases by two separate subtenants, the first occurring on February 20, 2018 and the second occurring on November 4, 2020.

6. As security for the Lease, Crystal Cruises pledged a cash security deposit in the amount of \$126,542.12 (the “**Security Deposit**”). As additional security for the Lease, a Letter of Credit (the “**Letter of Credit**”) was issued to CSHV as beneficiary, which pursuant to the Fourth Amendment was reduced to \$4,800,000.

7. The Letter of Credit was applied for by Crystal Acquisition Company Limited (“**CACL**”). CACL and Assignor share the same corporate parent entity, but CACL is a wholly separate legal entity from Assignor.

8. On or around February 7, 2022, CSHV delivered written notice of default under the Lease due to Crystal Cruises’ failure to pay rent thereunder when due.

9. On or around February 14, 2022, CSHV provided written notice that it was applying the Security Deposit against the unpaid rent obligations. On or around March 4, 2022, CSHV delivered to Crystal Cruises a notice advising Crystal Cruises that in accordance with California Civil Code Section 1951.2, CSHV considered the Premises to have been abandoned. Subsequently, CSHV drew down on the Letter of Credit, receiving the full \$4,800,000.00 face amount of the Letter of Credit.

10. Assignee objected to the full drawn down of the Letter of Credit, asserting that CSHV's damages were far less than the full amount drawn down.

11. As CACL was the applicant and party to the Letter of Credit, not the Assignor, there was doubt as to Assignee's standing to pursue the return of some or all of the Letter of Credit's funds drawn down by CSHV. The money that was drawn down came from CACL, not Assignor, but it was related to the Lease where Assignor was the proper party.

12. To resolve any question as to the matter of Assignee's standing, on June 30, 2022, Assignee and CACL entered into a proceeds agreement (the "**Proceeds Agreement**," a true and correct copy of which is attached hereto as **Exhibit A**) whereby CACL assigned to the estate CACL's interests and rights to collect from CSHV, some or all of the funds drawn down from the Letter of Credit. In consideration of CACL's assignment of its interests and rights, the Proceeds Agreement called for an equal split of any funds recovered from CSHV between CACL and the Assignor Estate.

13. On or around March 24, 2023, the Assignee caused Crystal Cruises to commence the action styled Mark C. Healy v. CSHV Wilshire Landmark, Case No. 2023-013041-CA-01 (the "**Lease Lawsuit**"), in the Circuit Court of The Eleventh Judicial Circuit in and for Miami-Dade

County, Florida (the “**Court**”) seeking, inter alia, to recover amounts overdrawn on the Letter of Credit.

14. To avoid the cost and uncertainty of litigation, the Assignee and CSHV entered into a negotiated settlement (the “**Settlement**”) on or about December 14, 2023. As part of the Settlement, CSHV agreed, in relevant part to pay to Assignor the sum of \$2,413,755.12 (the “**Settlement Payment**”). This Court approved the Settlement on or about January 30, 2024 and the Assignee received the Settlement Payment in February, 2024.

15. Assignee now intends to honor the Proceeds Agreement, and pay to CACL their half of the amount, after payment of fees and expenses in procuring the funds.

16. Additionally, as CACL is currently in liquidation, CACL does not have a bank account in its own name to which CACL’s share of the Settlement Payment may be transferred. As an alternative, CACL’s liquidators have provided Assignee with wiring instructions to an account titled in the name of CACL’s corporate parent entity, Genting Hong Kong Limited (IPL). A redacted copy of the Wiring Instructions are attached hereto as **Exhibit B**.

Relief Requested

17. The Assignee, in an exercise of his business judgment, entered into the Proceeds Agreement as clearly in the best interest of the estate and its creditors. The Proceeds Agreement is fair and reasonable, and the Assignee submits that the Court should approve the payment to CACL of \$1,162,983.06 which sum comprises one half of the Settlement Payment (“**CACL’s Portion**”).

18. Pursuant to Fla. Stat. 727.109(15) the Court is authorized to exercise all powers necessary to enforce or carry out the intent and goal of Chapter 727 which includes the authorization and approval of payments made in furtherance of the Assignment Estate for the benefit of its creditors.

19. CACL assigning its interest and rights to the Assignor Estate ensured that certain legal questions regarding standing were moot and thus enabled the Assignee, through counsel, to recover millions of dollars in funds that may have otherwise been unavailable to the Assignment Estate. As such, Assignee deemed the terms of the Proceeds Agreement pertaining to the split in any funds recovered to be fair and reasonable and in the best interest of the Assignment Estate's various creditors.

20. Additionally, due to CACL not having a bank account, Assignee requests that the Court authorize him to pay the funds due to CACL's corporate parent Genting Hong Kong Limited (IPL).

WHEREFORE, the Assignee respectfully requests the Court enter an Order, in the form attached hereto as **Exhibit C**, (i) granting this Motion; (ii) approving the payment of \$1,162,983.06 to CACL as its Portion of the Settlement Payment; (iii) approving the wiring of CACL's Portion to the bank account identified in **Exhibit B** hereto and titled in the name of Genting Hong Kong Limited (IPL); and (iv) for any and all other relief this Court deems just and proper

Dated: June 11, 2024

NARDELLA & NARDELLA, PLLC
Co-General Counsel for Assignee
135 W. Central Blvd., Ste. 300
Orlando, FL 32801
(407) 966-2680

By: /s/ Matthew R. Silbernagel
Michael A/ Nardella, Esq.
Florida Bar No. 51265
Matthew R. Silbernagel, Esq.
Florida Bar No. 113902
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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 June 11, 2024, which shall provide notice to all parties that have entered an appearance in this case; on counsel for the Assignor, Adam Losey, Esq., Losey PLLC, 1420 Edgewater Drive, Orlando, Florida 32804, via email to alosey@loseyllaw; via email to and all creditors and interested parties on the e-mail service list pursuant to the Notice Procedures Order; and via email to cbl44@jud11.flcourts.org pursuant to CBL Rule 2.2.

By: /s/ Matthew R. Silbernagel
Matthew R. Silbernagel, Esq.

EXHIBIT A
(Proceeds Agreement)

PROCEEDS AGREEMENT

This Proceeds Agreement (this "**Agreement**") dated as of June 30, 2022, is made and entered into by and between Mark C. Healy, not individually but solely in his capacity as assignee for the benefit of creditors of Crystal Cruises, LLC ("**Crystal Cruises**" or the "**Assignor**") (the "**Lessee**"), and Crystal Acquisition Company Limited ("**CACL**"). (Lessee and CACL are each a "**Party**" and are collectively the "**Parties**"). Crystal Cruises was a party to an Office Lease Agreement, dated May 28, 2013, as amended (the "**Lease**"). Lessee, CACL, and CSHV Wilshire Landmark LLC (the "**Landlord**") have a dispute regarding the Lease, and particularly the Landlord's actions on drawing upon a Letter of Credit associated with the Lease where CACL has claim to all or part of funds associated with the Letter of Credit, and Lessee's counsel has undertaken efforts to recover certain of the funds from Landlord.

In consideration of the above recitals and the mutual covenants hereinafter set forth, Lessee and CACL hereby agree that Lessee shall undertake good faith efforts, through counsel, to obtain a recovery of funds from the Landlord, including but not limited to potentially filing suit against the Landlord in the State of California or elsewhere to seek recovery, and that any net recovery of funds from Landlord (exclusive of amounts required to be returned to the issuer of the Letter of Credit, and of Lessee's attorneys' fees and costs) (the "**Funds**") shall be split between Lessee and CACL equally. Lessee shall have sole and complete authority to settle any claim with Landlord associated with the Funds on behalf of Lessee and CACL, and assuming Lessee is able to make a successful recovery of any such Funds (which Lessee does not guarantee), Lessee shall remit CACL's share of the Funds as soon as practicable after receipt from Landlord.

This Agreement constitutes the entire agreement and understanding of the Parties regarding the Lease and the Funds, and there are no agreements or commitments with respect to the Lease or Funds except as set forth in this Agreement. This Agreement supersedes any prior offer, agreement or understanding between the Parties with respect to the Lease and Funds. Any term or provision of this Agreement may be amended only by a writing signed by the Parties. For the convenience of the Parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Facsimile or electronically transmitted signatures to this Agreement shall be as valid and binding as a signed original. This Agreement shall be binding upon, shall inure to the benefit of, and shall be enforceable by and against, the Parties and their respective successors and permitted assigns. This Agreement shall be governed by and construed in accordance with the internal Laws of the State of Florida (excluding application of any choice of law doctrines that would make applicable the Law of any other state or jurisdiction) and, where appropriate, applicable federal Law. All claims and disputes arising under or in connection with this Agreement, whether for or in respect of, breach of contract, tort, equity, or otherwise, shall be adjudicated exclusively in the court before which the assignment for benefit of creditors of Crystal Cruises is pending, and each Party hereby consents to the jurisdiction of such courts.

Each of the directors of CACL have signed this Agreement as agents for and on behalf of CACL. Neither they, their firm, and their firm's members, partners, directors, officers, employees, agents, advisers or representatives shall incur any personal liability whatsoever in respect of any of the obligations undertaken by the Parties; or in respect of any failure on the part of the Parties to observe, perform or comply with any such obligations; or under or in relation to any associated arrangements or negotiations; or under any document or assurance made pursuant to this Agreement. IN CONNECTION WITH THE FOREGOING, AND IN CONSIDERATION OF THE TERMS AND PROVISIONS OF THIS AGREEMENT, AND AS A MATERIAL INDUCEMENT FOR THE ENTRY INTO THIS AGREEMENT, EACH PARTY HERETO KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES AND RELINQUISHES ITS RIGHT TO A TRIAL BY JURY OF ANY CLAIM, DEMAND, CAUSE OF ACTION OR ACTION BASED UPON OR ARISING HEREUNDER OR ANYWAY CONNECTED WITH OR RELATED TO THE LEASE OR THE LETTER OF CREDIT REFERENCED HEREIN OR THE ACTIONS OF THE PARTIES. EACH PARTY REPRESENTS IT WAS REPRESENTED BY COUNSEL IN CONNECTION WITH THE FOREGOING WAIVER. This Agreement is intended to be solely for the benefit of the Parties hereto and is not intended to confer, and shall not be deemed to confer, any benefits upon, or create any rights in or in favor of, any Person other than the Parties hereto, and their respective permitted assigns.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement by their duly authorized representatives.

MARK C. HEALY, NOT INDIVIDUALLY, BUT SOLELY IN HIS CAPACITY AS ASSIGNEE FOR THE BENEFIT OF CREDITORS OF CRYSTAL CRUISES, LLC

By: 
Name: Mark C. Healy
Title: Assignee

CRYSTAL ACQUISITION COMPANY LIMITED

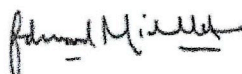
By: 
Name: Edward Middleton
Title : Director

EXHIBIT B
(Wiring Instructions)

CACL Wiring Instructions

Beneficiary account name:	Genting Hong Kong Limited (IPL)
Beneficiary account no.:	██████████
Beneficiary address:	Victoria Place, 5th Floor, 31 Victoria STREET, Hamilton, HM10, Bermuda
Beneficiary bank:	EFG Cayman Branch
Beneficiary bank SWIFT:	EFGBKYKY
Beneficiary bank address:	FORUM LANE, 9CAM ANA BAY GRAND, CAYMAN, CAYMAN ISLAND KY1-1003
Intermediary bank:	Bank of New York
Intermediary bank SWIFT:	IRVTUS3N

EXHIBIT C
(Proposed Order)

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

In re:

COMPLEX BUSINESS LITIGATION
DIVISION

CRYSTAL CRUISES LLC, a California
limited liability company,

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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 APPROVE PAYMENT TO CRYSTAL
ACQUISITION COMPANY LIMITED**

THIS CAUSE came before the Court upon the *Assignee's Motion to Approve Payment to Crystal Acquisition Company Limited* filed on June 11, 2023 (the "Motion") by Mark C. Healy (the "Assignee"), solely in his capacity as the Assignee for the benefit of creditors of Crystal Cruises LLC (the "Assignor"), The Court, having reviewed the Motion and record in this case, finding that notice of the Motion was sufficient and properly served on interested parties pursuant to §§ 727.103, 727.111(4) and 727.113, Fla. Stat. (2023), noting that no response to the Motion was received by the Assignee or filed within the 21-day negative notice period set forth in the Objection, finding that the relief requested in the Motion is in the best interest of the Assignor's

estate, and otherwise finding that good and sufficient cause exists for granting the relief set forth herein, does hereby

ORDER AND ADJUDGE that:

1. The Motion is GRANTED;
2. The payment of \$1,162,983.06 to Crystal Acquisition Company Limited (“CACL”)

as its Portion of the Settlement Payment is APPROVED;

3. The Assignee shall wire CACL’s Portion of the Settlement Payment to the bank account identified in **Exhibit B** to the Motion and titled in the name of Genting Hong Kong Limited (IPL);

DONE and ORDERED in Chambers at Miami-Dade County, Florida on this _____ day of _____, 2024.

Hon. Lisa Walsh
CIRCUIT COURT JUDGE

Electronically Served:

Physically Served: