

Court File Number: CV-17-11779-00C

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

ONTARIO SECURITIES COMMISSION

Plaintiff(s)

AND

CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED et. al.

Defendant(s)

Case Management ☐ Yes ☐ No by Judge: Koehnen J.

Counsel	Telephone No:	Email/Facsimile No:
S. Graff, M. van Zandvoort and S. John for the Receiver S. Bieber for the Receiver in the BDO litigation L. Rogers, A Laing for BDO J. Camp for Chrysallis Yoga Studio J. Lopehandia on his own behalf.		

☒ Order ☐ Direction for Registrar **(No formal order need be taken out)**
☐ Above action transferred to the Commercial List at Toronto **(No formal order need be taken out)**

☐ Adjourned to: _____

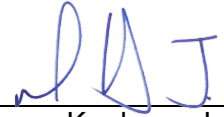
☐ Time Table approved (as follows):

Date Heard: June 2, 2020

1. The Receiver of Crystal Wealth seeks an order for various forms of relief including: approval for a settlement of an action the Receiver brought against BDO, approving an interim distribution to investors, approving a fee settlement with the Receiver's litigation lawyers, and approving an interim statement of receipts and disbursements.
2. Jorge Lopehandia asked me to adjourn the motion for 60 days to allow him to retain counsel.
3. The grounds for which Mr. Lopehandia wishes to retain counsel are somewhat nebulous. It appears that he takes issue with steps that the Receiver took in failing to pursue certain business opportunities at an earlier stage of the receivership which Mr. Lopehandia asserts has caused him and the receivership damages.
4. I declined to grant the adjournment for the following reasons:
 - i. The complaints Mr. Lopehandia raised, did not appear to relate of any of the relief the Receiver was seeking.
 - ii. To the extent that Mr. Lopehandia has a claim against Crystal Wealth, the deadline for filing claims was August 3, 2017. Mr. Lopehandia did not file any claim.
 - iii. Mr. Lopehandia appears to have raised allegations similar to the one he raises today in British Columbia a proceeding without success. Indeed, in his request for an adjournment, Mr. Lopehandia complained that the British Columbia court was "conned by the Receiver" and that the British Columbia action pursued by the Receiver "was criminal in its intent." If Mr. Lopehandia has complaints about the British Columbia proceeding, you must pursue those in British Columbia, not in Ontario.
 - iv. Mr. Lopehandia has not advanced any reason for not retaining counsel earlier to pursue whatever relief he seeks event though the complaints are several years old.
5. To the extent that Mr. Lopehandia has a claim against the Receiver, nothing in this order affects that claim. This order only approves a settlement and certain disbursements of the receiver.
6. No one raised any grounds to object to the relief the receiver sought, not even Mr. Lopehandia. Adjourning the motion to permit Mr. Lopehandia to retain counsel would prejudice the interests of unitholders in receiving a distribution of the settlement funds. I have been provided with no compelling reasons to delay that distribution.
7. I am satisfied from my review of the Fifth Receiver's report that it is appropriate to approve the settlement. The settlement resolves an action against BDO. Actions against accounting firms are notoriously difficult to prosecute. They are time-

consuming and expensive. A settlement at an early stage represents a substantial benefit to investors in Crystal Wealth. The settlement is substantial. In addition, the Receiver has negotiated a material discount to the legal fees associated with that action thereby further increasing the benefit to unitholders.

8. I am equally satisfied from my review of the billing information that the accounts of the Receiver and its counsel are justified and should be approved.

A handwritten signature in blue ink, appearing to be 'J. Koehnen', written over a horizontal line.

Koehnen J.

June 5, 2020