Court File No. CV-17-11779-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

ONTARIO SECURITIES COMMISSION

Applicant

- and -

CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED, CLAYTON SMITH, CLJ EVEREST LTD., 1150752 ONTARIO LIMITED, CRYSTAL WEALTH MEDIA STRATEGY, CRYSTAL WEALTH MORTGAGE STRATEGY, CRYSTAL ENLIGHTENED RESOURCE & PRECIOUS METALS FUND, CRYSTAL WEALTH MEDICAL STRATEGY, CRYSTAL WEALTH ENLIGHTENED FACTORING STRATEGY, ACM GROWTH FUND, ACM INCOME FUND, CRYSTAL WEALTH HIGH YIELD MORTGAGE STRATEGY, CRYSTAL ENLIGHTENED BULLION FUND, ABSOLUTE SUSTAINABLE DIVIDEND FUND, ABSOLUTE SUSTAINABLE PROPERTY FUND, CRYSTAL WEALTH ENLIGHTENED HEDGE FUND, CRYSTAL WEALTH INFRASTRUCTURE STRATEGY, CRYSTAL WEALTH CONSCIOUS CAPITAL STRATEGY, CRYSTAL WEALTH RETIREMENT ONE FUND and CHRYSALIS YOGA INC.

Respondents

APPLICATION UNDER SECTION 129 OF THE *SECURITIES ACT*
R.S.O. 1990, c. S.5, AS AMENDED

UNOFFICIAL TRANSCRIPTION OF THE ENDORSEMENT OF
THE HONOURABLE JUSTICE MYERS
DATED DECEMBER 12, 2017

As indicated at the hearing with the exceptions noted below, I am satisfied that the relief sought by the Receiver is fair and reasonable and should be granted. The Receiver and its counsel have performed a huge task as described in the very comprehensive Second Report. The Receiver was dropped into a mess in which it appears that tens of millions of dollars representing hard-working Canadians' investments have gone missing or been misappropriated. Third parties that dealt with Crystal Wealth who should be quickly and completely transparent to establish their innocence are attracting attention and suspicion by their dilatory, unhelpful responses.

The Receiver has gone a long way towards unraveling mysteries and realizing on low hanging fruit. It did not cause the losses. It is focused on protecting the interests of investors. Sadly not all who speak to the investors necessarily share that selfless goal. The Receiver is to be commended for its openness, thoroughness, and strong work to date. Counsel too. But now the hard work of realizing on impaired accounts begins in earnest.

The Receiver proposes interim distributions recognizing each Crystal Wealth Fund as distinct and applying all intercompany charges. It has accurate data that precludes consolidation.

I cannot grant the relief sought in para. 6 regarding taxes. I was shown no law or statute empowering the Court to exempt the Receiver from laws that apply to it. Moreover if taxation statutes apply to the Receiver, then the Court's inherent jurisdiction cannot apply by definition.

Para. 7 is amended to replace "certain requested but" with "all information previously sought from each of them in writing by or on behalf of the receiver that remains."

Para. 8 is deleted based on the representation by IAS that it has complied and has provided the Receiver with a copy of all information in its possession, power, and control regarding any and all of the Crystal Wealth Funds. If, on review of IAS's recent disclosures, the Receiver has concerns, I may be contacted on notice to counsel to IAS to schedule a case conference at which such concerns may be resolved summarily under Rule 50.13(6).

Para. 9 is amended to remove the words "at the offices of Victory Verbatim located at 222 Bay Street Suite 900, in Toronto, Ontario, with each such individual bearing their own cost of the attendance" and replacing them with "pursuant to a summons, interprovincial summons, or letter of request as the case may be. (The Receiver may apply without notice for any authorization or letter of request that it may require to compel the witnesses' attendance.)"

I do not agree with the Receiver's counsel that it was appropriate to seek mandatory injunctions to compel people outside Ontario and Canada to attend here at their own expense because there was "no downside" to ask and try to reduce administrative expenses. The downside of not complying with the law - especially by a Court officer - is self-evident and inapt.

Para. 11 is amended to replace "$536,755" with "$53,094.02". I agree with Mr. Dutrizac that the Receiver's examination of Mr. Froese is in respect of its efforts to identify and realize on assets of any of the companies in receivership. It is not a pre-discovery of claims against Frontline or Mr. Froese. However, that is not a reason to refuse to answer questions. That is, provided that the Receiver's questions are probative of identifying, quantifying, and realizing on choses in action available to a Crystal Wealth company, the fact that the question may also be relevant to future claims to be brought against Frontline or Mr. Froese is not a basis to refuse to answer. The Receiver will not fish for extraneous fuel for hypothetical claims. But it is entitled to follow and look for every dollar advanced by any Crystal Wealth entity and to thoroughly understand the transactions and spin cycles through which those funds may have travelled.

The Receiver's request for payment of the rest of the $536,755 that it has identified is adjourned to a 9:30 with counsel for Frontline to schedule a hearing on the merits of any claims that the Receiver may have. The 9:30 may be booked at a time when the Receiver is prepared on the merits.

Para. 92 of the Receiver's Second Report has been replaced by the Receiver at the request of Frontline.

Para. 19 of the draft order is amended by striking all words after "provisional execution". The Receiver is protected from liability from acting under this Order by its appointment order and s. 142 of the Courts of Justice Act. I leave to the Receiver's prudent business judgment whether it distributes funds prior to the expiry of any applicable appeal period. But I note that despite broad serving of the motion record, no one opposed or even commented upon the Receiver's request to make interim distributions.

Registrar is directed to release this endorsement to the Receiver who shall circulate it to the service list.

Myers, J.

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