



Court File No. CV-11-9532-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM) THURSDAY, THE 17TH DAY OF
)
JUSTICE CONWAY) AUGUST, 2023

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CRYSTALLEX INTERNATIONAL
CORPORATION**

ORDER

THIS MOTION, made by the Applicant, Crystallex International Corporation ("Crystallex" or the "Company"), proceeded by way of judicial videoconference via Zoom at Toronto, Ontario.

ON READING the Motion Record of Crystallex dated August 10, 2023 and the factum of Crystallex,

AND ON HEARING the submissions of counsel,

1. **THIS COURT ORDERS** that the documents listed in Schedule A attached hereto, which were previously sealed by Orders of this Court, shall be partially unsealed in accordance with the descriptions set out in Schedule A.

2. **THIS COURT ORDERS** that the Company shall prepare further copies of the documents referred to in paragraph 1 reflecting the partial unsealing detailed in the attached Schedule A, which documents shall be filed with the Court and updated on the website maintained by the monitor, Ernst & Young Inc., in its capacity as monitor of the Company, for access by the public.

3. **THIS COURT ORDERS** that subject to the endorsement of this Court dated June 7, 2016, any party may apply to the Court on proper notice to all parties in interest to seek to vary the provisions of this Order and nothing in this Order shall be deemed to prejudice their rights to bring a motion to seek such variation, provided that for certainty, a moving party shall have the onus on such motion(s) to justify any variation(s) sought.

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, Tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, including the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"), to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All Courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make orders and to provide such assistance to the Applicant and to the Monitor, as an Officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Applicant in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

5. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, including the Bankruptcy Court, for the recognition of this Order and for assistance in carrying out the terms of this Order.



SCHEDULE A

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court Order Paras. Ordering Sealing
1.	Affidavit of Robert Fung sworn April 9, 2014	Para. 5	Entire paragraph	Order of Justice Newbould dated April 14, 2014	n/a
		Para. 8	Entire paragraph		
		Para. 9	Second and third words of line three; Second last word of line three		
		Para. 11	Two words following “the amount” and preceding “had been” on line one; Remainder of paragraph following “DIP Loan” on line two		
		Paras. 12-13	Entire paragraphs		
		Para. 14	Remainder of paragraph following “agreed to,” on line three		
		Para. 15	First word on line four; Word following “amount of” and preceding “being the” on line five; Word following “amount of” and preceding “being the” on line six		
		Para. 16	Entire paragraph		
		Para. 17	Entire paragraph up to “The Second DIP” on line six		

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Paras. 20-21	Entire paragraphs			
		Para. 22	Remainder of paragraph following "Second DIP Amendment" on line three			
		Paras. 23-27	Entire paragraphs			
		Para. 28	Remainder of paragraph starting on line four			
		Para. 29	Entire paragraph			
		Para. 30	Remainder of paragraph starting on line five			
		Para. 31	Beginning of paragraph until "with the oversight" on line two; Remainder of paragraph following "(the "Additional Financing Period")" on line six			
		Paras. 32-33	Entire paragraphs			
		Para. 35	Beginning of paragraph until "Crystallex carefully" on line two			
		Paras. 38-39	Entire paragraphs			
		Para. 40	Words following "borrowing" and preceding "are discussed"			

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		Heading following para. 40	Entirety			
		Paras. 41-55	Entire paragraphs			
		Para. 47	Remainder of paragraph following "Budget be sealed" on line three			
2.	Eleventh Report of the Monitor dated April 12, 2014	Page 19	Remainder of page following "Appendix A"	Order of Justice Newbould dated April 14, 2014		n/a
		Page 20	Entire page			
		Page 21	Beginning of page until paragraph (g); Words following "Washington DC on" on line two of paragraph (g) and preceding paragraph (h); Remainder of page from "first" on line two of paragraph (h)			
		Page 22-24	Entire page			
		Page 23	Remainder of page following "Appendix B"			
		Page 24	Entire page			
		Page 29	Remainder of page following "Appendix D"			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Pages 40-42	Entire pages			
		Page 43	Beginning of page until two final sentences of note 10.; Remainder of page following two final sentences of note 10.			
3.	Affidavit of Harry Near sworn December 15, 2014	Para. 4	Remainder of paragraph following "2014" on line five	Confidential Endorsement of Justice Newbould dated December 18, 2014		9-7
		Paras. 5-8	Entire paragraphs			
		Para. 9	Remainder of line two following "an order"; Entirety of subparagraphs (b) and (c); Words following "approving" and preceding "and" in subparagraph (d)			
		Paras. 10-24	Entire paragraphs			
		Heading following para. 24	Entirety			
		Para. 25	Entirety of paragraph until third last line			
		Paras. 26-43	Entire paragraphs			
		Para. 44	Remainder of paragraph following "December 31, 2015" on line			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
			three			
		Heading following para. 44	Entirety			
		Para. 46	Words following "Oppenheimer" on line two and preceding "No additional" on line four; Remainder of paragraph following "by Crystallex" on line five			
		Heading following para. 46	Remainder of heading following "Terms of"			
		Para. 47	Entire paragraph up to "Oppenheimer and Fung" on line six, but for the single words immediately following "(i)" and "(ii)", respectively; Words following "in the future" on line seven and preceding "A further key term" on line eleven; Remainder of paragraph following "as an employee" on line thirteen			
		Heading following para. 47	Entirety			
		Para. 48	Remainder of paragraph following "award or settlement" on line			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
			two			
		Paras. 50-51	Entire paragraphs			
		Para. 52	Remainder of paragraph following “MIP participants” on line two			
		Para. 53	Entire paragraph			
		Para. 54	Remainder of paragraph following “As described above”, but for the single word following “would be” and preceding “of the Net” on the final line			
		Para. 56	Entire paragraph			
		Para. 57	Remainder of paragraph following “described above”			
		Heading following para. 57	Entirety			
		Paras. 58-60	Entire paragraphs			
		Para. 61	Remainder of paragraph following “foregoing reasons”			
		Para. 62	Remainder of paragraph following “Materials describing” on line two, but for the two words following “be sealed” and preceding “Crystallex” on line three			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Para. 63	Words following “two reasons” on line two and preceding the remainder of the paragraph starting on line seven			
		Pages 27-31	Remainder of page following “Schedule A”			
		Pages 28-31	Entire pages			
		Pages 34-47	Entire pages			
		Page 48	Entire page up to “the Facility” on the second last line of the page			
		Pages 49-50	Entire pages			
		Page 51	Entire page up to “determine” on the second last line of the page			
		Page 52	Entire page			
		Page 53	Entire page up to “related to” on the second last line of the page			
		Page 55	Entire page up to “Amendment Agreement” on the second last line of the page			
		Page 56	Entire page			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Page 57	Entire page, but for: The two words following “aggregate of” and preceding “the Net” on line five of subparagraph 5(a); The single words immediately following points (i) and (ii) on lines six and seven of subparagraph 5(a), respectively; The third last word on the second last line of subparagraph 5(a)			
		Page 58	Entire page up to “conviction may result” on the second last line of the page			
		Page 59	Entire page			
		Page 60	Entire page up to “to the Lender” on the second last line of the page			
		Pages 61-72	Entire pages			
		Page 73	Entire page but for lines 2-4 and 7-10			
		Pages 74-86	Entire pages			
4.	Thirteenth Report of the Monitor dated	Para. 3	Entirety of subparagraph (d); Remainder of subparagraph (e) from “discussions between” on;	Confidential Endorsement of Justice Newbould		9-7

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
	December 14, 2014		Entirety of subparagraph (f); Words following “relating to” and preceding “to Robert Fung” in subparagraph (g); Words following “approval” and preceding “DIP” in subparagraph (h); Final word of subparagraph (h); Remainder of subparagraph (i) from the second line on	dated December 18, 2014		
		Para. 8	Words following “Monitor Reports” on line three and preceding “it has been” on line four			
		Para. 9	Words following “Eleventh Report” on line two and preceding “which had not been” on line five; Remainder of paragraph following “in the forecast” on line five			
		Heading after para. 9	Entirety			
		Para. 10	Entirety of line two until the final word			
		Heading after para. 12	Remainder of title following “between”			
		Para. 13	Words following “several months” and preceding “have been” on			

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			line two' Line three until "The Monitor"			
		Para. 14	Beginning until "No resolution" on line two			
		Heading after para. 14	Entirety			
		Paras. 16-19	Entire paragraphs			
		Heading following para. 19	Remainder of heading following "views"			
		Paras. 20-23	Entire paragraphs			
		Para. 24	Entirety of subparagraph (a); Words following "Eleventh Report" and preceding "given" in subparagraph (b) Remainder of paragraph following "given" in subparagraph (b) Remainder of subparagraph (c) following "the"			
		Paras. 25-29	Entire paragraphs			

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		Heading following para. 29	Entirety			
		Heading following para. 30	Entirety			
		Heading following para. 31	Entirety			
		Paras. 32-34	Entire paragraphs			
		Heading following para. 34	Entire heading up until last word			
		Para. 35	Entire paragraph			
		Heading following para. 35	Entirety			
		Para. 36	Remainder of paragraph following "Monitor's report"			
		Para. 37	Second and third words of the paragraph; Remainder of paragraph following "Crystallex"			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Para. 38	Words following “since” on line one and preceding “accordingly” on line three; Words following “whether” and preceding “and” on line four			
		Para. 39	Entire paragraph			
		Para. 40	Remainder of paragraph following “Arbitration Claim”			
		Para. 42	Final five words of the paragraph			
		Para. 43	Entire paragraph			
		Heading following paragraph 43	Words following “Transfer of” and preceding “to management”			
		Para. 44	Words following “by Crystallex” on line three and preceding “Robert Fung” on line five; Words following “of such” and preceding “as” on line six; Words following “of Crystallex” and preceding “are unaffected” on line seven			
		Para. 45	Entire paragraph			
		Para. 46	Words following “Management” on line two and preceding “and allow” on line three;			

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			Remainder of paragraph following “Management” on line four			
		Para. 47	Beginning of paragraph until “Based on” on line two; First word of line three; Remainder of paragraph from “the view” on line three			
		Para. 48	Line five until the last word of line six; The final four words of line seven			
		Para. 49	Remainder of paragraph following “and remains”			
		Para. 51	Beginning of paragraph until “Claim” on line five; Words following “Claim” on line five and preceding the final word of the paragraph			
		Para. 52	Words between “its motion” on line one and “the Applicant” on line two			
		Para. 53	Beginning of paragraph until “In this context” on line two			
		Para. 54	Words between “the transfer” on line two and “to Robert Fung” on line three			
		Para. 55	Remainder of paragraph following “an Order” on line two			
		Page 15	Entire page			

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		Pages 17-22	Entire pages			
		Page 23	Beginning of page until two final sentences of note 10.; Remainder of page following two final sentences of note 10			
5.	Affidavit of Robert Fung sworn October 23, 2018	Paras. 12-15	Entire paragraphs	Order of Justice Hainey dated October 28, 2018		11-13
		Para. 16	Beginning until first word of third line of subparagraph (c); Entirety of subparagraph (d)			
		Heading following para. 16	Entirety			
		Heading following para. 17	Entirety			
		Para. 18	Entirety of paragraph but for: Fourth word of the third line; Second word of the sixth line			
		Para. 19	Entire paragraph			
		Para. 25	Entirety of subparagraph (a);			

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			Words following "Crystallex" on line five of subparagraph (b) and preceding "Since" on line six of subparagraph (b); Remainder of subparagraph (b) following "Tax Reports" on the second last line			
		Para. 26	Words following "maximizes value" on line three and preceding "Crystallex" on line four			
		Para. 27	Words following "November" on line twelve and preceding "and to discuss" on line thirteen			
		Para. 28	Beginning of paragraph until "The Waterfall" on line three			
		Para. 29	Words following "in order" on line two and preceding the last word of line three			
		Para. 30	Remainder of paragraph following "Stay Period" on line seven			
		Para. 39	Remainder of paragraph following "Award" on the last line			
		Para. 40	Words following "DIP Lender" on line four and preceding "to properly" on line five			
		Para. 44	Words following "this as" on line three and preceding "the Tax Reports" on line four			
		Para. 47	Words following "Company's efforts" on line four and preceding "to address" on line five			

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		Para. 49	Beginning of paragraph until final word of line three; Words starting at the final word of line eight and ending at line ten		
		Para. 50	Entire paragraph		
		Para. 51	Entire paragraph, but for the words following "the Company's" and preceding "or" on the third last line		
6.	Affidavit of Robert Fung sworn April 23, 2019	Para. 9	Remainder of paragraph following "effect" on line three	Order of Justice Hainey dated May 3, 2019	10-12
		Para. 15	Remainder of paragraph following "months" on line three		
		Para. 23	Words following "Payment" on line two and preceding subparagraph (a); Remainder of subparagraph (c) following "Payment" on line five; Remainder of paragraph following "(the "Maduro Government")" on line five of subparagraph (d); Entirety of subparagraph (f); Remainder of subparagraph (h) following "Appeal" on line two		
		Para. 24	Beginning of paragraph until "in continuing" on line one		

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Para. 25	Words following “negotiated settlement” on line five and preceding “in this current environment” on line seven			
		Para. 26	Entire paragraph			
		Para. 27	Beginning of paragraph ending at “proceedings” on line three			
		Para. 28	Beginning of paragraph ending at “addressed” on line two; Words beginning with “I am” on line four and ending with “Payment” on line seven			
		Para. 29	First word of paragraph; Remainder of paragraph beginning with “the Company” on line two			
		Para. 33	Remainder of paragraph following “ongoing” on line four			
		Para. 37	Remainder of paragraph following “CCAA Proceeding” on line three			
		Para. 55	Words following “strategy” on line two and preceding the final two words of line three			
		Para. 56	Entire paragraph but for the words following “Company’s” and preceding “and” on line eight			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
7.	Affidavit of Robert Fung sworn October 25, 2019	Para. 5	First five words of line three	Order of Justice Hainey dated November 4, 2019		10-12
		Para. 10	Words following "effect" on line three and preceding "As a result" on line five			
		Para. 16	Remainder of paragraph following "future" on line four			
		Para. 20	Entire paragraph			
		Para. 22	Entire paragraph			
		Para. 27	Remainder of paragraph following "oil sales" on line four			
		Paras. 28-30	Entire paragraphs			
		Para. 34	Words following "2019" on line three and preceding "As a result" on line five; Words following "Delaware Stay" on line seven until the end of line eight			
		Paras. 35-36	Entire paragraphs			
		Para. 37	Beginning of paragraph until the words following "of the" on line two			
		Para. 38	Beginning of paragraph until "Crystallex" on line three			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Para. 39	Beginning of paragraph until the words following “Court” on line three			
		Para. 40	Beginning of paragraph until the words following “Court” on line three; Words beginning with “The Sanctions” on line five and ending with “securities and” on line six			
		Para. 44	Beginning of paragraph until the words following “until recently” on line five; Words beginning with “The appeal” on line six and ending with “Crystallex” on the final line			
		Para. 46	Words beginning with the last word of line two and preceding “The Company” on line three			
		Para. 47	Remainder of paragraph following “the Waterfall” on line eight			
		Paras. 49-51	Entire paragraphs			
		Para. 53	Entire paragraph			
		Para. 54	Remainder of paragraph following “2020” on line two			
		Para. 55	Words following “unresolved” on line two and preceding “it is” on line three; Remainder of paragraph following “stakeholders” on line five			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Para. 57	Final line of the paragraph			
		Para. 72	Beginning of paragraph until "The disclosure" on line two; Words following "budgets" on line three and ending on the first word of line nine; Remainder of paragraph beginning with the fourth last word of line nine			
8.	Affidavit of Robert Fung sworn October 28, 2020	Para. 12	Words following "cash" on line four and ending with "liquidated" on line six	Order of Justice Hainey dated November 3, 2020		10-12
		Para. 14	Words following "below" on line seven until the end of line eight			
		Para. 20	Remainder of paragraph following "separately" on line six			
		Para. 24	Beginning of paragraph until the words following "support is" on line two; Words beginning with "while" on line three and ending with "to" on line four"; Words beginning with "Guaido" on line four and ending with "several" on line five; Words beginning with "Attached" on the third last line until the fourth last word on the last line; Last two words on the final line			

	Document	Location of Information Proposed to be Unsealed		CCAA Order	Court	Court Order Paras. Ordering Sealing
		Para. 29	Remainder of paragraph following “time” one line four			
		Para. 30	Entire paragraph			
		Para. 40	Final two words of line three and first word of line four; Words beginning with “have the” on line four” and ending with “this time” on line eight			
		Para. 44	Beginning of paragraph until end of the third line; Words beginning with “the Initial” on line six and preceding “Crystallex” on line eleven; Final two lines of the paragraph			
		Para. 59	Words following “Crystallex” on line two and preceding “which” on line four; Words following “Decision” on line five and preceding “Even” on line six; Words following “Information” on line eight and preceding “will cause” on line nine			
		Para. 72	Entire paragraph			

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Court File No. CV-11-9532-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

ORDER

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