

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

Case # 1:15-cv-00191-WES-LDA

Securities and Exchange Commission

Plaintiff

v.

Patrick Churchville,

ClearPath Wealth Management, LLC

Defendants

And

CLEARPATH MULTI-STRATEGY FUND I, L.P.,

CLEARPATH MULTI-STRATEGY FUND II, L.P.,

CLEARPATH MULTI-STRATEGY FUND III, L.P.,

HCR VALUE FUND, L.P.,

Relief Defendants.

FILED  
2019 JAN -7 P 1:30  
DISTRICT COURT  
PROVIDENCE, RHODE ISLAND

**RESPONSE TO OBJECTION TO MOTION TO COMPEL**

Now comes Patrick Churchville ("Churchville") movant/defendant herein, appearing Pro Se, and respectfully submits the following response to the objection to the Motion to Compel the Receiver and SEC to Answer Questions About the Proposed Distribution Plan (Motion to Compel).

### **RELEVANT BACKGROUND**

On or about November 29th, 2018 Churchville filed a Motion to Compel the Receiver and SEC to Answer Questions About the Proposed Distribution Plan (Motion to Compel). On or about December 13th, 2018 The Receiver and SEC filed objections to the Motion to Compel.

### **ARGUMENT**

A Double Standard is defined as applying a different or conflicting set principles in similar situations in order to accomplish one's goals.

This is what the SEC and Receiver are asking for in their objections to the Motion to Compel. They demand full transparency and full disclosure from those they oversee, but when asked to live up to the same standard they balk and cry out "We don't work for you."

True, they don't work for Churchville, but they do work for the Court - and are working on behalf of the investors. Hopefully they will both support Churchville's Motion to Compel and demand answers to the questions and commentary on the issues it raises.

The objections do not even address some of the most important points brought up in Churchville's Motion, such as:

- Valuation of distributed equity positions
- Tax ramifications for IRA investors
- Double Dipping Disqualifications
- Wrongful (unconstitutional?) Insider Designations

Instead they attempt to deflect attention from these issues by trying to cast Churchville in a negative light. claiming he is only bringing these issues up for his own benefit.

The fact is, Churchville is doing EXACTLY what the Court wants him to do - help to recover as much money as possible for the investors.

Yes, a successful recovery would also reduce Churchville's Restitution, but that is not a bad thing - it's a win-win for both the investors and Churchville - all interests are aligned.

The fact that the SEC and Receiver are objecting to answering questions is troubling. The Receiver's argument that answering would be "too expensive" is weak.

The recoveries and tax issues Churchville has raised involve multiple millions of dollars for the investors. The cost associated with turning over some documents and answering some questions is inconsequential compared to the dollars at stake.

The SEC and Receiver then go on to say Churchville should "do it himself" - and that he wouldn't be able to use the information anyway. This is also a troubling response, but a job Churchville would be more than happy to undertake.

If given the power by the Court this is what Churchville would do with the information in question:

RP and JER Bank Statements:

Using the power of the Court, compel Jonathan Rosenberg to get the bank statements for JER at Bank of America, TD Bank, Bank of Princeton etc.

Or simply have the Attorney General demand that he produce them and turn them over - he almost certainly has them on file.

Rosenberg cooperated with the Government in the case against IPI in exchange for a significantly reduced prison sentence. If Rosenberg refuses to keep cooperating then perhaps the Court could revoke his cooperation status.

Churchville would review these statements - just like he did with the RP statements - trace where the money actually went and using the power of the Court clawback from any improper recipients.

Duane Morris and Attorney Bill Weiner:

Same as above. Rosenberg is entitled to copies of these invoices from Duane Morris - and again, he probably has them on file. If he refuses to cooperate use the same leverage regarding revoking his cooperation status. Churchville would review these statements and identify any invoices that were paid by RP or JER for unrelated work. Attorneys are supposed to verify their payment sources. If there are any improper payments then Duane Morris should return them.

The RP payments alone were in excess of \$450,000. We do not know the extent of any payments from JER.

Linda Rosenberg \$5 Million Condo Purchase:

Subpoena the purchase and sale documents and bank statements for this transaction. Check where the money came from to both purchase and renovate that condo. If JER or RP money was a source, then file a claim against the proceeds.

Churchville would also confirm that none of Linda or Michael Rosenberg's IRA investment money was directed to that condo (or other personal accounts). That would constitute both wire and tax fraud and those funds would be eligible for clawback.

Oppenheimer Credit Line:

File a complaint with Finra and request arbitration - a standard part of a broker-dealer account application.

The credit line has been deemed illegal and the lender did not "know their client" sufficiently, or gain approval or acknowledgement from the investors during underwriting. Therefore the lender is at fault for making an improper loan and should be required to reimburse the investors in full plus damages.

One needs to look no further than the HCR Value Fund to see a correct underwriting and investor acknowledgement process.

Request compensatory damages for the entire credit line amount of \$4,800,000 plus reimbursement of legal fees and punitive damages for negligence and willful misconduct.

The SEC could also fine them and disgorge fees.

Commerce Bank Credit Line:

Similar to above.

File a complaint with Federal Reserve.

The credit line has been deemed illegal and the lender did not "know their client" sufficiently, or gain approval or acknowledgement from the investors during underwriting. Therefore the lender is at fault for making an improper loan and should be required to reimburse the investors in full plus damages.

Again, one needs to look no further than the HCR Value Fund to see a correct underwriting and investor acknowledgement process.

Request compensatory damages for the entire credit line amount of \$4,000,000 plus reimbursement of legal fees and punitive damages for negligence and willful misconduct. The SEC could also fine them and disgorge fees.

These potential recoveries total over \$20,000,000 - more than enough to fully reimburse the investors. Even a partial recovery (or settlements) would be well worth the potential expenses. At the very least worth a serious look.

However, in a May 2018 telephone call between Churchville and the Receiver, the Receiver told Churchville that none of these had been explored past "phase one" - and in at least one case, subpoena documents had been "lost in the shuffle" when he joined his new law firm and moved offices. That is simply mind boggling.

Equally perplexing is the SEC's rush to close the Receivership in 2019 without these potential recoveries being fully investigated. On that same May 2018 phone call, the Receiver

told Churchville that the SEC doesn't think anything will come of the recoveries and wants to "shut down" the Receivership.

At the end of the call the Receiver seemed enthusiastic about pursuing the recoveries, but never responded to Churchville again - and is now predicting the Receivership will close on 2019.

If these potential recoveries have been fully explored in the last few months, then that would make sense. Answering these questions - and providing evidence of actions taken - should not be a problem.

Contrary to the claims of the SEC and Receiver, Churchville has NO desire to squander money on dead ends or long-shots. In fact, that is in direct conflict with their claim that he is doing this simply as a selfish way to reduce Restitution.

Fortunately, the actions described above would not cost very much - and in some cases, nothing at all.

In addition, some of the tax considerations Churchville has raised could save investors millions of dollars on tax liabilities and cost nothing to implement.

These are all important questions and issues that could have a significant impact on the investors. They need to be answered and addressed because it is in the best interest of the investors.

### **REQUEST**

For all of the above reasons Churchville requests that the Court compel the SEC and Receiver to answer the questions posed in Churchville's Motion, provide evidence of all recovery investigations and commentary on the valuation, tax and insider designation issues that were raised.

For the above and foregoing reasons, Churchville respectfully request that his motion be, in all things granted, and that the Court compel the Receiver and SEC to answer these questions and provide details of their investigations. In addition, provide JER bank statements and all sealed Exhibits to the defendant for review.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on January 7, 2019 a true and correct copy of the above and foregoing Response To Objections To Motion To Compel was sent via U. S. Mail, postage prepaid, to Marc J. Jones / Plaintiff Counsel at United States Securities and Exchange Commission, 33 Arch Street, Boston, MA 02110, and Stephen F. Del Sesto /Receiver, Pierce Atwood LLP at One Financial Plaza, 26th Floor, Providence, RI 02903.



PATRICK CHURCHVILLE