

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

SECURITIES AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 15-cv-00191-S-LDA
)	
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.)	
)	

**ORDER IMPOSING PRELIMINARY INJUNCTION, FREEZING ASSETS AND FOR
OTHER EQUITABLE RELIEF**

WHEREAS the defendants Patrick Churchville and ClearPath Wealth Management, LLC (“ClearPath”) (collectively, the “Defendants”), and Relief Defendants ClearPath Multi-Strategy Fund I, L.P. (“Multi-Strategy I”), ClearPath Multi-Strategy Fund II, L.P. (“Multi-Strategy II”), and ClearPath Multi-Strategy Fund III, L.P. (“Multi-Strategy III”), (collectively, “The ClearPath Funds”) without admitting any allegations of the Complaint, except as to jurisdiction, have reviewed this Order Imposing Preliminary Injunction, Freezing Assets and For Other Equitable Relief (the “Order”) and consented to its immediate entry without an adjudication on the merits of any issue of fact or law; and,

WHEREAS the Court finds that the relief set forth in the Order is necessary and appropriate for the benefit of investors who may have been injured as a result of the conduct alleged in this lawsuit; and,

WHEREAS the Court is authorized to grant the relief set forth in this Order pursuant to the Federal Rules of Civil Procedure, its general equitable authority and also pursuant to Section 21(d)(5) of the Securities Exchange Act of 1934 [15 U.S.C. § 78u(d)(5)].

I.

IT IS HEREBY ORDERED that Defendants are restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. §240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS HEREBY FURTHER ORDERED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Order by personal service or otherwise: (a) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

II.

IT IS HEREBY FURTHER ORDERED that Defendants are restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. §77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;
or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

IT IS HEREBY FURTHER ORDERED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Order by personal service or otherwise: (a) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

III.

IT IS HEREBY FURTHER ORDERED that Defendants are restrained and enjoined from violating Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §80b-6(1) & (2)], by, directly or indirectly, through the use of the mails or any means or instruments of interstate commerce:

- (a) employing devices, schemes, or artifices to defraud; or
- (b) engaging in transactions, practices, or courses of business which operate as a fraud or deceit upon a client or prospective client.

while acting as an "investment adviser" within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. §80b-2(a)(11)].

IT IS HEREBY FURTHER ORDERED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Order by personal service or otherwise: (a) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

IV.

IT IS HEREBY FURTHER ORDERED that Defendants are restrained and enjoined from violating Section 206(4) of the Advisers Act [15 U.S.C. §80b-6(4)], and Rule 206(4)-8 thereunder [17 C.F.R. §275.206(4)-8] by, directly or indirectly, through the use of the mails or any means or instruments of interstate commerce, engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative, or to:

- (a) make any untrue statement of material fact or to omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to any investor or prospective investor in a pooled investment vehicle; or
- (b) otherwise engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

while acting as an “investment adviser” within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. §80b-2(a)(11)].

IT IS HEREBY FURTHER ORDERED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Order by personal service or otherwise: (a) Defendants’ officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

V.

IT IS HEREBY FURTHER ORDERED that Defendant ClearPath is restrained and enjoined from violating Section 206(4) of the Investment Adviser’s Act of 1940, 15 U.S.C. §80b-4, and Rules 206(4)-2 and 206(4)-7 promulgated thereunder, [17 C.F.R. §§206(4)-2 and 206(4)-7] by the use of any means or instrumentality of interstate commerce, or the mails to engage in any act, practice or course of business that is fraudulent, deceptive, or manipulative, including:

- (1) having custody of client funds unless:
 - (a) it sends quarterly account statements to each of its clients for whom funds or securities are maintained identifying the amount of funds and of each security of which it has custody and setting forth all transactions during each period;
 - (b) a public accountant verifies those funds and securities at least annually; and the independent public accountant notifies the Commission within one business day upon finding any material discrepancy; and

- (2) providing investment advice unless it adopts and implements written policies and procedures reasonably designed to prevent violation of the Investment Adviser Act and rules promulgated thereunder.

IT IS HEREBY FURTHER ORDERED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Order by personal service or otherwise: (a) Defendant ClearPath's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

VI.

IT IS HEREBY FURTHER ORDERED that:

A. Except as detailed in Paragraph VI.C, below, the Defendants and the ClearPath Funds, and each of their officers, agents, servants, employees and attorneys and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, including via facsimile or email transmission, or overnight delivery service, shall hold and retain funds and other assets of Defendants presently held by them, for their direct or indirect benefit, under their direct or indirect control or over which they exercise actual or apparent investment or other authority, in whatever form such assets may presently exist and wherever located, and are restrained from taking any actions to withdraw, sell, pay, transfer, dissipate, assign, pledge, alienate, encumber, dispose of, or diminish the value of in any way (including, but not limited to, making any charges on any credit card or draws on any other credit arrangement), any funds and other assets of the Defendants or presently held by them, for their direct or indirect benefit, under their direct or indirect control, or over which they exercise actual

or apparent investment or other authority, in whatever form such assets may presently exist and wherever located.

B. All banks, brokerage and other financial institutions (including but not limited to Bank of America, Citizens Bank, Commerce Bank, Fidelity), and other persons or entities that receive actual notice of this Order by personal service or otherwise, including via facsimile or email transmission, or overnight delivery service, holding any funds or other assets in the name, for the direct or indirect benefit, or under the direct or indirect control of the Defendants or over which the Defendants exercise actual or apparent investment or other authority, in whatever form such assets may presently exist and wherever located, shall hold and retain within their control and prohibit the withdrawal, removal, sale, payment (including, but not limited to, any charges on any credit card or draws on any other credit arrangement), transfer, dissipation, assignment, pledge, alienation, encumbrance, diminution in value, or other disposal of any such funds or other assets; and that such funds and assets are hereby frozen.

C. Any real property currently directly or indirectly, wholly or partially owned or held by Churchville, including but not limited to Churchville's residence and any real estate owned by Macaw Investment Company LLC or any other entity in which Churchville directly or indirectly owns an interest may be sold under the following circumstances:

1. The property may be listed for sale by any broker unaffiliated with and unrelated to either Patrick Churchville or ClearPath, provided the broker charges no more than a standard market commission for its services;
2. Counsel for Churchville will notify counsel for the Commission of all offers to purchase the property (detailing price, any conditions to the sale,

and whether Churchville recommends the offer be accepted) before the offer is accepted;

3. Counsel for the Commission shall notify counsel for Churchville within forty-eight (48) hours of receiving the offer to purchase the property whether it agrees or objects to the sale of the property at the offered price. The Commission may object to the proposed sale of the property if, in the opinion of counsel for the Commission, the sale at the offered price is below a reasonable market value for the property or the sale may otherwise harm the interests of investors who may have been injured as a result of the conduct alleged in this lawsuit. If counsel for the Commission objects to the sale of the property at the offered price and counsel for Churchville disagrees with the SEC's position, the matter will be immediately submitted to the Court for determination.
4. All net proceeds from the sale due seller or otherwise payable to Defendants and/or their officers, agents, servants, employees and attorneys and those persons in active concert or participation with them (after deducting reasonable and ordinary expenses and adjustments associated with the sale of the property including but not limited to payment of any liens, mortgages, encumbrances, broker fees, transfer stamps, tax adjustments and counsel fees, etc.) shall be deposited in an escrow account as established by counsel for the Defendants and the Commission.
5. Paragraph VI.C.4 immediately above requiring the escrow of all net proceeds associated with the sale of any property shall not apply to any

deposits tendered by any prospective buyers. Instead, any deposits tendered under a purchase and sale agreement may be held separately in escrow with the broker or counsel representing either the buyer or seller in the proposed transaction and shall not be subject to the provisions of Paragraphs VI.A and VI.B, above;

6. All money deposited pursuant to Paragraph VI.C.4 shall be held and retained in an escrow account as established by counsel for the Defendants and the Commission, and shall be subject to the provisions of Paragraphs VI.A and VI.B, above.

D. The above Paragraphs VI.A, VI.B, and VI.C shall immediately cease to apply to any assets located within the United States, including any bank, brokerage or other financial institution account, which becomes subject to any later order entered by any federal court as a result of proceedings which may be filed by the United States or any department or agency thereof under any federal civil or criminal forfeiture statute, to the extent such later order requires the transfer of any asset to the United States government.

VII.

IT IS HEREBY FURTHER ORDERED that within seven (7) days from the entry of this Order, that Defendants shall deposit all funds in their control or disposal not presently held at another financial institution into an escrow account as established by counsel for the Defendants and the Commission. The Court further orders that within seven days from the entry of this Order, Defendants shall each provide an affidavit or declaration under penalty of perjury that these steps have been taken.

VIII.

IT IS HEREBY FURTHER ORDERED that the Defendants shall submit in writing and serve upon the Commission, within thirty (30) business days following service of this Order upon them, an accounting identifying:

1. By name and address, all persons, entities and accounts currently holding funds or assets derived from the transfers or payments from any of the Defendants or the ClearPath Funds during the time period September 1, 2014 to the present, and the reason each received the funds or assets (the identification shall include the amount each received, the date received, the reason received, the institution and account number or location in which the funds or other assets are held and the name, address, account number and financial institution of the person or entity who provided each with the funds or other assets);

2. Assets of every type and description with a value of at least five hundred dollars (\$500) presently owned by or held for the direct or indirect benefit, or subject to the direct or indirect control, of Defendants, whether in the United States or elsewhere;

3. All accounts held at any bank, brokerage or other financial institution in the United States or elsewhere in the name, for the direct or indirect benefit, or under the direct or indirect control of Defendants, the ClearPath Funds and/or HCR Value Fund, L.P. or in which Defendants, the ClearPath Funds and/or HCR Value Fund, L.P. have or had any direct or indirect beneficial interest, at any time from January 1, 2008 to the present.

IX.

IT IS HEREBY FURTHER ORDERED that the Defendants and each of their agents, servants, employees and attorneys and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, including via facsimile

or email transmission, or overnight delivery service, are hereby prohibited from soliciting, accepting, or depositing any monies obtained from actual or prospective investors, investment advisory clients or other clients or customers, or from exercising any discretionary authority they may have over clients' accounts or assets pending the resolution of this action, nor may they open new accounts at any bank, brokerage firm, or other financial institution.

X.

IT IS HEREBY FURTHER ORDERED that the Defendants shall submit in writing to the Commission, within seven (7) business days following service of this Order upon them, a list of all street and mailing addresses (including without limitation postal box numbers), telephone or facsimile transmission numbers (including without limitation pagers and mobile telephones), electronic mail addresses, safety deposit boxes, and storage facilities used by them or under their direct or indirect control, at any time since January 1, 2010.

XI.

IT IS HEREBY FURTHER ORDERED that the Defendants and each of their agents, servants, employees and attorneys and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, including via facsimile or email transmission, or overnight delivery service, are hereby restrained from destroying, mutilating, concealing, altering, disposing, or transferring custody of any items, including but not limited to any books, records, documents, correspondence, contracts, agreements, assignments, obligations, tape recordings, computer media or other property relating to Defendants or the misconduct described in the Complaint.

XII.

IT IS HEREBY FURTHER ORDERED that the Commission, notwithstanding the provisions of Fed. R. Civ. P. 26(d) and the Local Rules of this Court, may commence discovery in aid of its asset freeze in this case.

XIII.

IT IS HEREBY FURTHER ORDERED that Defendants will produce to the Commission all documents responsive to the investigative subpoenas previously served on them, within thirty (30) days of the entry of this Order.


XIV.

IT IS HEREBY FURTHER ORDERED that, as the parties have agreed that the appointment of a receiver in this action will be necessary and appropriate for the purposes of marshaling and preserving all assets of the Defendants and those assets of the ClearPath Funds that: (a) are attributable to funds derived from investors or clients of the Defendants; (b) are held in constructive trust for the Defendants; (c) were fraudulently transferred by the Defendants; and/or (d) may otherwise be includable as assets of the estates of the Defendants, the Court directs counsel for the Defendants and the Commission to confer with one another in order to identify a prospective receiver and establish the scope of the receiver's duties. Counsel shall report back to the Court on or before July 15, 2015 regarding the appointment of a receiver. A proposed Order Appointing a Receiver may be submitted to the Court on or before July 15, 2015 if the parties are in agreement or, if the parties have not reached an agreement, the matter may be submitted to the Court for determination concerning the identity of the Receiver, the appropriate powers and duties of the Receiver and the provisions of the Order Appointing Receiver.

XV.

IT IS HEREBY FURTHER ORDERED that this Order is entered without prejudice to any party's right to present any evidence or argument to the Court and to seek any modification of or relief from any part of this Order. Unless otherwise ordered by the Court, this Order shall remain in effect until entry of an Order or other final disposition of this action.

It is SO ORDERED.



Hon. William E. Smith
UNITED STATES DISTRICT JUDGE

Dated: June 2, 2015

