UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

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.

Case No. 15-CV-000191-S-LDA

RECEIVER'S RESPONSE TO MOTION BY ACREWOOD PARTIES FOR ALLOWANCE FOR PAYMENT OF LEGAL FEES, COSTS AND EXPENSES

Now comes Stephen F. Del Sesto, Esq., as Receiver for Defendants Patrick Churchville and ClearPath Wealth Management, LLC ("CPWM") and Relief Defendants ClearPath Multi-Strategy Fund I, L.P., ClearPath Multi-Strategy Fund II, L.P., and ClearPath Multi-Strategy Fund III, L.P., and hereby responds to the Motion by Acrewood Parties' for Allowance for Payment of Legal Fees, Costs and Expenses ("Motion for Allowance") (Document No. 43) and the Memorandum of Law in Support of Motion by Acrewood Parties for Allowance for Payment of Legal Fees, Costs and Expenses ("Acrewood MOL") (Document No. 43-1).

I. INTRODUCTION.

The Acrewood Parties (as defined in the Acrewood MOL) contend that the Agreement Regarding Continuing Operations of HCR Value Fund ("ARCO"), a pre-receivership executory contract, entitles the Acrewood Parties to an offset from the HCR Value Fund Series B funds distributed pursuant to this Court's November 4, 2015 Order Approving Receiver's Petition for Instructions Regarding the Proposed "Settlement Agreement and Termination of the Operating Agreement, the Joint Investment Agreement and the Servicing Agreement" (Document No. 41). More specifically, the Acrewood Parties argue that the Receivership Estate has been benefitted by the performance of the Acrewood Parties and, therefore, the Receiver has impliedly assumed the burdens of the ARCO—to include the cost reimbursement provision in Section 2.1 thereof. The Receiver, for his part, does not contest that the Estate has benefitted by certain services performed by counsel for the Acrewood Parties.[1] Nor does the Receiver contest that the ARCO was a valid contract when executed on May 21, 2015.[2]

The Receiver does, however, strenuously maintain that any offset would violate the provisions of this Court's July 30, 2015 Order Concerning HCR Value Fund (Document No. 17). Furthermore, the Receiver—bolstered by established bankruptcy and insolvency law—disagrees that he has assumed the terms of the ARCO. Instead, to the extent that this Court determines that

[1] With that said, Mr. Churchville's counsel also contributed to the negotiations and activities preceding the appointment of the Receiver, payment for which the Acrewood Parties now claim administrative priority.

[2] The Receiver does question the dubious statement that "the Acrewood Parties engaged attorneys and incurred expenses with the assumption that expenses would be paid for from proceeds due to the Receiver Estate." Acrewood MOL, at 23. The Acrewood Parties engaged counsel immediately upon learning of the SEC's investigation (two months prior to the execution of the ARCO) and the Receiver is quite confident that the Acrewood Parties would have maintained the engagement to assist them in protecting their 98.75% interest in HCR Value Fund Series B as well as navigating through the SEC's investigation which would have necessarily involved the Acrewood Parties regardless of the ARCO or its cost reimbursement provision.

an offset would not violate the July 30 Order, the Court should only permit an offset for the *reasonable* value of those services which actually conferred a material benefit upon the Receivership Estate. Third and finally, even if this Court determines that the Receiver has expressly assumed the terms and obligations of the ARCO, the Court should only allow an offset for the reasonable cost of the services rendered.

II. ARGUMENT.

A. The Acrewood Parties' legal fees and expenses should not be offset against the HCR Value Fund Series B funds given that such offset would violate the express provisions of this Court's July 30, 2015 Order Concerning HCR Value Fund, L.P.

The Acrewood Parties' Motion for Allowance should be denied in its entirety given that any administrative priority offset would violate the express provisions of this Court's July 30, 2015 Order Concerning HCR Value Fund, L.P. (Document No. 17). On July 30, this Court ordered, *inter alia*, that the HCR Value Fund Series B "may continue to operate, pursuant to the terms of the 'Agreement Regarding Continuing HCRVF Operations' . . . and that such HCR Value investor entities may replace HCR Value Fund GP, LLC as general partner . . . ." (Document No. 17). Contrary to the Acrewood Parties' assertions, the Court did not "bless" the ACRO and the Court most certainly did not bind the Receiver to the ARCO (as will be more fully explained below in Section B(1)). The Court ordered that the HCR Value Fund Series B could continue to operate pursuant to the terms of the ARCO subject, however, to a number of important conditions.

Most relevant to the current issue, the Court ordered that any distribution made to the Defendants would be subject to the freeze provisions of Section VI.A of the Court's June 2, 2015 Order Imposing Preliminary Injunction, Freezing Assets and for Other Equitable Relief. (Document No. 13). Section VI.A of the Court's June 2 Order restrained the Defendants and

Relief Defendants from taking any actions to diminish or transfer any assets currently within their direct or indirect control.[3] Additionally, the Court ordered that the HCR Value Fund Series B could continue to operate provided that "[n]o financial interest of the defendants (including but not limited to the rights to distributions or payments in respect of any capital contribution, carried interest, or management fees due to or accrued for the benefit of the Defendants) be dissipated or diminished . . . ." The Court's July 30 Order was intended to benefit only the ClearPath investors. *See* Document No. 17, at 1-2 ("[T]he relief set forth in this 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 . . . ."). The Acrewood Parties have made it clear that they do not fall within that group. *See* Acrewood MOL, at 24 ("The Acrewood Parties had nothing to do with MultiStrategy Fund I, II, or III . . . .").

Nonetheless, the Acrewood Parties maintain that they and their counsel "understood the 'no dissipation and diminishment' condition to apply to what was to happen thereafter, i.e. under their watch, that it was prospective in nature, and that it was meant to require the Acrewood Parties to preserve and protect the assets of HCR Value Fund . . . ." Acrewood MOL, at 17.

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[3] Section VI.A of the Court's June 2 Order Imposing Preliminary Injunction, Freezing Assets and for Other Equitable Relief reads as follows:

> Except as detailed in Paragraph VI.C, below, [applying only to real property] 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 in any way (including but not limited to, making 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 exists and wherever located.

However, Acrewood's interpretive gloss conflicts with the express language of the Order as well as the SEC's understanding of the Order. First, the Order plainly states that "no financial interest of the ***defendants*** . . . be dissipated or diminished . . . ." The intent of the Order was to preserve and protect the assets of the Defendants, defined by the Order as Patrick Churchville and CPWM. There is no basis for the Acrewood Parties to believe that the Order was intended to protect and preserve the assets of HCR Value Fund. Moreover, the SEC has stated that, with regard to the July 30 Order, "[t]he Commission did not intend to ask the Court to ratify an indemnification by Defendants of all Acrewood's expenses relating to this matter." Commission's Statement About Receiver's Petition for Instruction Regarding the Proposed "HCR Value Fund, L.P. Amendment No. 1 to the Limited Partnership Agreement", at 3 (Document No. 22). The SEC lamented that "such an indemnification could unfairly advantage Acrewood over all other investors in this case, who have had to cover their own expenses in attempting to recover from Defendants." *Id*. While the Acrewood Parties' subjective intent and understanding of the July 30 Order would be largely irrelevant in any circumstance, it carries even less weight given that it materially conflicts with the plain language of the Order as well as the SEC's intent.

For these reasons, the Court should deny the Motion by Acrewood Parties' for Allowance for Payment of Legal Fees, Costs and Expenses in its entirety given that the requested offset would dissipate and diminish the financial interests of Mr. Churchville and/or CPWM.

B. Even if the Court determines that an offset would not violate the terms of the July 30 Order, the ARCO and its cost reimbursement provision are not binding on the Receiver given that the Receiver has not assumed the ARCO and, therefore, the Acrewood Parties are, at most, entitled to an offset for the *reasonable* value of the services which have actually conferred a benefit to the Receivership Estate.

Even if this Court were to determine that an offset would not violate the terms of the July 30 Order Concerning HCR Value Fund, L.P., the Court should only allow $17,465 to be offset against the Series B distribution because that amount is the reasonable value of the services which actually conferred a benefit to the Receivership Estate. The Receiver has not assumed, expressly or implicitly, the terms and obligations of the ARCO and, therefore, the Acrewood Parties are only entitled to administrative priority for the reasonable value of the services that the Receiver has elected to use.

1. The Receiver is legally entitled to enjoy the benefit of a pre-receivership executory contract without expressly assuming the terms of that contract ***provided*** *that the Receiver pays the fair value of the services enjoyed.*

"A receiver is not strictly speaking the successor of the defendant, individual or corporation and an executory contract of the defendant may be broken by the receivership and give rise to damages resulting in a claim against the assets in the hands of the receiver."[4] Clark on Receivers, p. 710 § 423 (1959) (footnote omitted). "In order that the receiver may be absolutely bound by a contract of the debtor, the receiver must **positively indicate his intention** to take over the contract." *Id.*, p. 722 § 428(a) (footnote omitted) (emphasis added). "The receiver is under no obligation to the other parties to the contract to perform such contract on behalf of the debtor." *Id.* at p. 720 § 428 (footnote omitted). Importantly, the common law

[4] That claim would proceed through the ordinary claim procedures and would be considered alongside the (presumably) many other claims that will be submitted throughout this Receivership. The question before the Court on this Motion for Allowance is what, if any, portion of the Acrewood Parties' claim should be given priority over all other creditors.

permits a receiver to enjoy the benefits of a pre-receivership contract on an interim basis, while reserving the decision to assume or reject its terms:

> Where the subject matter of the contract is such that it is necessary or advisable for the receiver to make use of the advantages of the contract during [the] period of suspension, *[the receiver] may do so without necessarily committing himself to an adoption thereof.* If he make such usage and thereafter renounce the contract, he is liable for such usage during the time the other party was, without its consent or acquiescence, held subject to the contract. The measure of such liability is not necessarily that prescribed by the contract, but is the value of the benefit and such ad interim usage has been to the estate not exceeding the compensation stipulated by the contract.

Id., at pp. 722-23, § 428(a) (emphasis supplied; footnotes omitted).

While legal analyses of common law receivership issues should almost always begin with Clark's venerable treatise,[5] Clark need not man the laboring oar in this matter because Acrewood's citation to *In re FBI Distribution Corp.*, 330 F.3d 36 (1st Cir. 2003) is exceedingly instructive. Writing for the First Circuit, Judge Stahl emphasized the liquidating fiduciary's interim rights to use a pre-petition executory contract while reserving its decision to assume or reject the contract:

> Where the debtor in possession . . . induces a nondebtor to render performance pursuant to an *unassumed* prepetition executory contract, pending its decision to reject or assume, the nondebtor party will be entitled to administrative priority only to the extent that the consideration supporting the claim was supplied to the debtor in possession during the reorganization and was beneficial to the estate.

Id. at 42-43 (emphasis in original). The First Circuit further expounded upon the liquidating fiduciary's financial obligations in cases where the fiduciary elects to utilize the contract:

> If the debtor-in-possession elects to continue to receive benefits from the other party to an executory contract *pending a decision to reject or assume the contract*, the debtor-in-possession is obligated to pay for the reasonable value of those services, which depending on the circumstances of a particular contract, may be what is specified in the contract.

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[5] Federal courts (to include the United States Supreme Court, the United States Court of Appeals for the First Circuit and this Court) have relied on *Clark on Receivers* to assist in over 100 decisions.

Id. at 44 (*quoting NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 531 (1984)) (emphasis supplied). In fact, pursuant to *In re FBI Distribution Corp.*, the Receiver is not even authorized to assume the terms of the ARCO without this Court's approval: "It is well settled . . . that an executory contract cannot be assumed by unilateral acts of the debtor-in-possession during the reorganization of the business." *Id*. at 45; s*ee* Clark on Receivers, at p. 720 § 428 ("The receiver must determine whether or not he, with the approval of the court, will carry out these contracts on behalf of the debtor or let them go and subject the debtor and the receivership estate to the consequences of breach of such contracts.").[6]

The Acrewood Parties state, in summary fashion, that "[u]nder the circumstances, it is clear that the Receiver has assumed the ARCO with court approval." Acrewood MOL, p. 20 ¶ 54. The Receiver has unsuccessfully scoured the docket for its motion seeking approval of the ARCO. The Court's July 30, 2015 Order Concerning HCR Value Fund, L.P. (Document No. 17) cannot be considered court-approval of the ARCO given that the Receiver was appointed that same day. As stated above, it was certainly not the SEC's intent that the Court's July 30 Order ratify the cost reimbursement provision of the ARCO. The decision to assume or reject belongs exclusively to the Receiver (subject to court approval) and, accordingly, an Order entered the same day as the Receiver's appointment cannot be ascribed to the Receiver.

From *In re FBI Distribution Corp.*, we learn two things: (1) the liquidating fiduciary is not required to assume a pre-petition executory contract merely because the fiduciary elects to

[6] Judge Stahl explained the court-approval requirement as follows:

> The policy served by court approval is not difficult to discern. As mentioned above, assumption of a prepetition contract has serious consequences; it not only elevates a prepetition liability to a postpetition liability, but also entitles the nondebtor party to first priority status. Court approval thus provides protection to the unsecured creditors whose claims could be prejudiced by potentially burdensome contracts—ones that may have driven the business into bankruptcy in the first place.

In re FBI Distribution Corp., 330 F.3d at 45.

make use of the contract on an interim basis but (2) the counter-party may be entitled to an administrative claim (an offset in this case) for the *reasonable* value of the services rendered to the fiduciary which conferred a benefit upon the Estate. In this case, the Receiver has not assumed the ARCO but has merely elected to enjoy certain benefits of that pre-receivership executory contract and, therefore an offset may be appropriate for the *reasonable* value of those services which actually conferred a benefit upon the Receivership Estate.

2. *The Court should only permit an offset for legal fees and expenses to the extent that the services rendered actually benefitted the Receivership Estate.*

As explained above, if not in violation of the July 30 Order, an offset may be appropriate for the fair and reasonable value for services which actually benefitted the Receivership Estate. The Acrewood Parties are correct in that certain services performed by their legal counsel benefited the Receivership Estate (as well as the Acrewood Parties themselves). Accordingly, an offset may be appropriate for the reasonable value of the services for which the Receiver has knowingly and intentionally enjoyed a benefit.

Based on this standard, the Court should not allow an offset for any services rendered prior to the appointment of the Receiver on July 30, 2015. The above cited law is clear that administrative priority in the form of an offset is only applicable to services rendered during the reorganization period. *In re FBI Distribution Corp.*, 330 F.3d at 43. In this case, that period began on July 30, 2015. The Motion for Allowance seeks an offset for 110.65 hours totaling $66,067.65 for services rendered by Pepper Hamilton LLP ("Pepper") from March 17, 2015 to July 15, 2015. Next, the Motion for Allowance seeks an offset for 15.80 hours totaling $10,851 for services rendered by Dechert LLP ("Dechert") from June 24, 2015 to July 30, 2015. As there was no Receiver in place during this period of time, it cannot be said that the Receiver elected to enjoy the benefits of these services. Furthermore, permitting an offset for these purported pre-

receivership debts would violate the insolvency doctrine requiring mutuality of offsets. *See O'Connor v. Insurance Co. of North America*, 622 F. Supp. 611, 618 (N.D. Ill. 1985) ("[C]laims owed by or to the bankrupt prior to bankruptcy cannot be set off against claims owed by or to the bankrupt's estate (as represented by the receiver or trustee) and arising after bankruptcy."); *see also Peurifoy v. Gamble*, 142 S.E. 788, 791 (S.C. 1927) (common law equivalent). To the extent that these pre-receivership services benefitted Mr. Churchville and/or CPWM, the Acrewood Parties will be entitled to file a proof of claim with the Estate.

Second, there has been no benefit to the Receivership Estate from the appearance of Pepper or Adler Pollock & Sheehan, P.C. ("AP&S") in *Securities & Exchange Commission v. Patrick Churchville, et al.* ("SEC Action") or from the filings made by the Acrewood Parties.[7] Counsels' appearance and participation has been exclusively aimed at protecting the interests of the Acrewood Parties in the disposition of the HCR Value Fund matters. While the Acrewood Parties are well within their rights to monitor and contribute to the disposition of the petitions related to the HCR Value Fund; the Receivership Estate is already paying for the Receiver to litigate these petitions and has derived no benefit from Acrewood counsel's work in this regard. The Receiver has reviewed the invoices submitted by the Acrewood Parties in support of their Motion for Allowance and has compiled a list of the hours related to their filings in the SEC Action (attached hereto as Exhibit A). Pepper and AP&S spent 61.75 hours on these filings totaling $32,287.99. Between the hours expended prior to the Receiver's appointment and the hours expended on litigating matters in the SEC Action, 188.2 of the 238.1 hours claimed by the

[7] Specifically, the filings include the Statement of the Acrewood Entities About Receiver's Petition for Instructions Regarding the Proposed "HCR Value Fund, L.P. Amendment No. 1 to the Limited Partnership Agreement" (Document No. 25), the Motion by Acrewood Parties' for Allowance for Payment of Legal Fees, Costs and Expense (Document No. 43) and the Declaration of Jamie Barret in Support of Motion by Acrewood Parties' for Allowance for Payment of Legal Fees, Costs and Expenses (Document No. 44).

Acrewood Parties produced no benefit to the Receivership Estate and, therefore, those hours should not be the subject of an offset. Furthermore, the $20,000 in legal fees charged by Fox Chase Bank are not allowable as an offset both because they were incurred prior to the Receiver's appointment and they provided no benefit to the Estate. And finally, this Court should not enter an Order approving an offset for any future fees of the Acrewood Parties given that those fees should be subject to the above analysis prior to a determination on administrative priority.

For the foregoing reasons, 49.9 hours (238.1 hours less the 188.2 hours excluded above) may have actually conferred a benefit upon the Receivership Estate to which the Receiver consented. To the extent that this Court intends to allow any offset, such offset should be made for the *reasonable* value of 49.9 hours of legal services.

3. *As to the hours spent on services which conferred a material benefit to the Receivership Estate, the Court may permit an offset for the reasonable expense of such services.*

"The value of the benefit of the use of franchises or other rights or properties being used by the receiver, and the time of payment of such operating expense of the receivership, if covered by no contract, is addressed to the sound discretion of the court which is conducting the receivership . . . ." Clark on Receivers, p. 723 § 428(a). The reasonable value of interim services rendered pursuant to a pre-petition contract depends on the circumstances surrounding the contract. *See In re FBI Distribution Corp.*, 330 F.3d at 44; *see also In re United Cigar Stores Co. of America*, 69 F.2d 513, 515 (2d Cir. 1934) ("It is an equitable right based upon the reasonable value of the use and occupation.").

The ARCO was executed on May 21, 2015, approximately two months after the Acrewood Parties learned of the SEC's investigation and two weeks after the SEC filed its complaint seeking, *inter alia*, the appointment of a receiver. The Acrewood Parties understood at

that time that the appointment of a receiver was "very likely." *See* The Statement of Acrewood Entities about Receiver's Petition for Instructions Regarding the Proposed "HCR Value Fund, L.P. Amendment No. 1 to the Limited Partnership Agreement", at 6 ("In late May, upon the filing of the complaint, it also became clear to Acrewood Holdings that Churchville's and ClearPath's assets were very likely to be the subject of a receivership order.") (Document No. 25). Certainly, the Acrewood Parties and their adroit legal counsel understood the potential ramifications of contracting with persons or entities on the brink of receivership.[8] This is not to say that the Acrewood Parties do not deserve to be compensated for the benefits that its counsel may have conferred upon the Receivership Estate (unless such compensation violates Court Order), but rather that the reasonable value of those benefits must be considered in the context of this Receivership.

This Court has appointed the Receiver subject to an hourly rate fee structure which caps partners at $350 per hour, associates between $250 and $295 per hour, paralegals between $140 and $185 per hour and legal assistants at $94 per hour. The invoices attached to the Acrewood MOL show that counsel to the Acrewood Parties charged a blended hourly rate of $609 with partners billing between $450 and $965 per hour, associates billing between $319 and $685 per hour, and paralegals billing at $256 per hour. In the context of this Receivership proceeding, such rates cannot be considered fair and reasonable.[9] The Acrewood Parties urge that the work they have performed "is the equivalent of the Receiver's role with respect to the MultiStrategy

[8] The execution of the ARCO prior to the appointment of a receiver was particularly wise given that "[i]t is not ordinarily the province of a receiver to enter into contracts of surety or indemnification." Clark on Receivers, p. 731 § 440.

[9] Receivership aside, the Court should consider the reasonableness of the fees with an eye towards the region. *See Rhode Island Medical Society v. Whitehouse*, 323 F. Supp. 2d 283 (D.R.I. 2004). Certainly, reference to the hourly rate charged by Attorney Techentin ($425/hour) would provide meaningful guidance to assist that inquiry.

Funds." Acrewood MOL, at 24. Assuming the Acrewood Parties are correct, compensation should reflect the equivalency.

The Receiver agrees that some of the work performed by counsel to the Acrewood Parties spared the Receiver considerable time and, therefore, the 49.9 hours that conferred a benefit to the Receivership Estate (if offset) may be billed at the capped rate for partners in this Receivership ($350 per hour) regardless of who actually performed the work. Accordingly, if the Court determines that an offset is appropriate, that offset should be limited to $17,465 (49.9 hours at $350 per hour).

C. If this Court were to determine that offset under the ARCO does not violate the Court's July 30, 2015 Order Concerning HCR Value Fund, L.P. and that the Receiver did assume the terms and obligations of the ARCO, the Court should still reduce the amount of allowable offset.

Even assuming, *arguendo*, that this Court determines that cost reimbursement provision of the ARCO does not violate the July 30 Order and that the Receiver assumed the terms and obligations of the ARCO, the Court should still reduce the allowable offset pursuant to the terms of Section 2.1, which reads as follows:

> Churchville and ClearPath hereby agree to indemnify the Acrewood LPs, CP Investor and Acrewood Holdings for ***any reasonable out-of-pocket costs*** incurred by them in connection with the SEC Action, this Agreement and any actions reasonably undertaken in connection therewith. Any such expenses may be offset against the Management Fee or other payments or distributions due to ClearPath or HCRVF-GP in respect of HCRVF-Series B or the CP Medical business.

(emphasis supplied). As argued in Section B(3) above, the $609 hourly blended rate charged by counsel to the Acrewood Parties is not reasonable. If the investors are to pay for the Acrewood Parties' legal fees pursuant to an agreement executed by Mr. Churchville, the investors should only be required to pay the rates that this Court has deemed reasonable. Accordingly, partners should be compensated at $350 per hour, associates should be compensated at a blended $272.50

per hour, paralegals should be compensated at a blended $162.50 per hour and legal assistants should be compensated at $94 per hour. Based on a review of the billings, the Acrewood Parties were billed for 155.6 hours of work by partners at Pepper, Dechert and AP&S, 51.3 hours of work by associates at Pepper and Dechert, 27.7 hours of work by a paralegal at Pepper, and 3.5 hours of work by litigation support staff at Pepper. Pursuant to the rates that this Court has deemed reasonable in this proceeding, the appropriate bills should be $54,460 for the partners, $13,979.25 for the associates, $4,501.25 for the paralegal, and $329 for the legal assistants. Accordingly, *if* this Court determines that an offset under the ARCO does not violate the July 30 Order and that the Receiver has assumed or adopted the terms and obligations of the ARCO, the maximum allowable offset should be $73,269.50.[10]

CONCLUSION

For the foregoing reasons, your Receiver respectfully requests that this Court deny the Acrewood Parties' Motion for Allowance in its entirety given than any offset would violate the terms of this Court's July 30, 2015 Order. However, should this Court determine that the Acrewood Parties are entitled to administrative priority in light of the benefit conferred upon the Receivership Estate or because the Receiver assumed the terms and obligations of the ARCO, the Court should limit the offset to the reasonable value of the legal services which, in the former instance, would be $17,465, and, in the latter instance, would be $73,269.50.

[10] The Acrewood Parties' claim for an offset for the legal fees charged by Fox Chase Bank and fees that may be charged in the future should still be denied because the current record provides no principled manner by which to determine whether those fees were reasonable as required under Section 2.1 of the ARCO.

Respectfully submitted,

/s/ Stephen F. Del Sesto, Receiver
Stephen F. Del Sesto, Esq. (Bar #6336)
Receiver for Patrick Churchville, ClearPath Wealth Management, LLC, ClearPath Multi-Strategy Fund I, L.P., ClearPath Multi-Strategy Fund II, L.P., and ClearPath Multi-Strategy Fund III, L.P. and not individually
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Dated: November 25, 2015

CERTIFICATE OF SERVICE

I, Stephen F. Del Sesto, hereby certify that I filed the within document on the 25th day of November, 2015, and that notice will be sent electronically to all counsel who are registered participants identified on the Mailing Information for Case No. 15-cv-00191-S-LDA.

/s/ Stephen F. Del Sesto
Stephen F. Del Sesto

EXHIBIT A

PEPPER HAMILTON LLP

Date	Name	Services	Time	Charge
9/23	Corelli	Review and revise draft Receiver submission to Judge Smith re HCRVF amendment No. 1. Emails with B. Dolan and J. Barrett	.8	$ 568.80
9/24	Corelli	Review and revise petition to Court re expense offset; Discuss same with J. Barrett; further revisions and email to W. Dolan	1.9	$ 1,350.90
9/30	Corelli	Emails from receiver and with acre wood re-results of petition and court action	.3	$ 213.30
9/30	Dubow	Review and respond to emails re new Order from Court and strategy	.3	$ 184.95
10/1	Corelli	Telephone J. Barrett and J. Dubow re text Order; Email M. Jones	.4	$ 284.40
10/1	Dubow	Prepare for and telephone call with J. Barrett and J. Corelli re status and strategy; review and respond to emails re same	.5	$ 308.24
10/5	Corelli	Review SEC submission; email with J. Barrett; outline Acrewood submission and discuss same with J. Barrett	.7	$ 497.70
10/5	Dubow	Review and respond to emails re status and strategy; telephone calls re local counsel	.8	$ 493.20
10/5	Hud	Confer with J. Dubow; review complaint, court docket, and receivership documents	1.0	$ 342.00
10/5	Moore	Research services for Julie Corelli—obtained documents filed in SEC v. Churchville	.5	$ 47.25
10/6	Corelli	Structure and draft Acrewood Statement in response to Receiver Petition for Instructions re expenses	4.0	$ 2,844.00
10/6	Dubow	Review and respond to emails re filing in response to SEC	.7	$ 431.55
10/6	Hud	Confer with local counsel re: pro hac vice motions and next steps; communications with J. Dubow and J. Corelli re: response motion; review District of Rhode Island Local Rules	1.0	$ 342.00

Date	Name	Services	Time	Charge
10/7	Corelli	Drafting and revision of statement to be filed in respect to Receiver's petition for instructions; calls with J. Barrett re same; coordinate with litigation team (J. Dubow and C. Hud)	6.5	$ 4,621.50
10/7	Corelli	Draft statement of Acrewood in response to Receiver Petition for instructions	3.0	$ 2,133.00
10/7	Dubow	Review and edit court filing; review and respond to emails re same; analysis re receiver issues	1.3	$ 801.45
10/7	Connon	Conduct legal research into issues related to receiverships and bankruptcy law	3.5	$ 1,118.25
10/7	Hud	Conduct legal research re: bankruptcy vs federal equity receiverships; draft and file Statement of position re: Petition's Motion for Instructions; draft pro hac vice motions for J. Corelli, J. Dubow; and C. Hud	6.8	$ 2,323.60
10/8	Hud	Draft and file pro hac vice motions for J. Corelli, J. Dubow and C. Hud	.5	$ 171.00
10/15	Corelli	Review filing from Receiver and emails re same with J. Barrett/J. Dubow	.3	$ 213.00
10/15	Hud	Review Receiver's Reply Brief; confer with J. Dubow and J. Corelli re: same	.4	$ 136.80
10/22	Hud	Preparation for upcoming hearing; communications with Local Counsel re: same	.3	$ 102.60
10/25	Corelli	Review Receiver activity report	.3	$ 213.30
10/26	Corelli	Emails with J. Barrett and B. Dolan re upcoming hearing and other issues	.3	$ 213.30
10/27	Corelli	Review Receiver's Petition for approval of Settlement; discuss the same with J. Barrett; revise draft; prepare for hearing	3.25	$ 2,310.75
10/27	Eastridge	Review Rhode Island District Court Case on PACER; draft index hyperlink filings at the District Court re: Securities and Exchange Commission v. Churchville et al; organize Acrewood documents for J. Corelli's preparation for hearing; conversation with J. Corelli re: same	4.0	$ 1,026.00
10/28	Corelli	Preparation for hearing	.5	$ 355.50

Date	Name	Services	Time	Charge
10/29	Corelli	Prepare for hearing; review prior submissions; attend hearing; report back to and discuss next steps with J. Barrett; discuss next submission with J. Techentin; direct J. Eastridge on data gathering for fee application	4.7	$ 3,341.70
10/29	Hud	Review court orders	.1	$ 34.20
10/29	Eastridge	Conversation with J. Corelli re: Acrewood emails and bills for submission; review emails and bills and coordination of same	1.5	$ 384.75
10/30	Corelli	Review Order; email re same; discuss with J. Barrett; office conference with J. Eastridge re timeline needed to back up petition; develop outline for petition arguments	1.0	$ 711.00
10/30	Eastridge	Conversation with J. Corelli re: Acrewood emails and bills for submission; review of emails; draft timeline to support fee request	2.0	$ 513.00
TOTAL			**53.15**	**$28,632.99**

ADLER POLLOCK & SHEEHAN, P.C.

Date	Name	Services	Time	Charge
10/6	Techentin	Review docket report for status and general background of dispute	.6	$ 255.00
10/7	Techentin	Review, edit, and file statement in response to petition for instructions; confer with counsel (C. Hud, J. Corelli and J Dubow) re contents of same and background of matter; correspondence re submission of motions for pro hac vice	3.5	$ 1,487.50
10/8	Techentin	Review and file pro hac vice applications for Pepper Hamilton counsel	.3	$ 127.50
10/22	Techentin	Email correspondence with counsel re request for J. Corelli to appear at omnibus hearing by telephone; draft letter to court re same; telephone call with courtroom deputy re same	.3	$ 127.50
10/28	Techentin	Attention to motion for instructions filed by receiver	.2	$ 85.00

Date	**Name**	**Services**	**Time**	**Charge**
10/29	Techentin	Confer with J. Corelli re preparation for omnibus hearing and strategic objectives; attend in chambers conference	3.4	$ 1,445.00
10/30	Techentin	Review draft orders submitted by counsel for receiver arising out of chambers conference 10/20/15	.3	$ 127.50
TOTAL			**8.6**	**$ 3,655.00**
GRAND TOTAL			**61.75**	**$32,287.99**