

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
vs.) 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.)
)

RECEIVER’S FIRST INTERIM FEE APPLICATION

Now comes, Stephen F. Del Sesto, the Court-appointed Receiver for Defendants Patrick Churchville and ClearPath Wealth Management, LLC 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. (collectively “Receivership Entities”) and hereby submits his First Interim Fee Application. This Fee Application conforms to the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission” as required by Paragraph 59 of this Court’s July 30, 2015 Order Appointing Receiver. (Document No. 16). The billing invoices supporting this First Interim Fee Application will be provided to the Commission and the Court under separate cover.¹

¹ According to the “Billing Instructions for Receivers in Civil Actions Commenced by the Commission” the Receiver should attach a “Standardized Fund Accounting Report” to fee applications. However, in light of the fact that, to date, no Distribution Plan has been approved, the Receiver has only collected and deposited those funds identified in Paragraph 2(a) and the Receiver has made no distributions, the Receiver did not believe that such a Report was necessary or helpful as it would relate to this First Interim Fee Application. However, if requested by the Commission or the Court, the Receiver will immediately prepare and file the Report.

1. Information about the Applicant and the Application

- a. The period of time covered by this Application is from July 30, 2015 through and including September 30, 2015.
- b. The Receiver was appointed on July 30, 2015.
- c. The Applicant has utilized the following professionals and paraprofessionals at the following rates:
 - i. Stephen F. Del Sesto, Partner: \$350/hour
 - ii. William M. Dolan III, Partner: \$350/hour
 - iii. Nicholas L. Nybo, Associate: \$250/hour
 - iv. William K. Wray, Jr., Associate: \$250/hour
 - v. Julie A. Zaccagnini, Paralegal: \$185/hour
 - vi. Deborah L. Medeiros, Paralegal: \$185/hour
- d. This Fee Application is the first interim application and, as such, there have been no previous fee applications and no previous fees allowed or disallowed.

2. Case Status (Narrative)

- a. The Receiver has \$1,742,331.25 on hand from collection of the following funds:
 - i. \$903,356.60 in funds that were in the possession of the law firm of Lepizzera & Laprocina²;
 - ii. \$35,523.57 in funds collected via the Receiver's closeout of bank accounts held by Defendants at Bank of America;
 - iii. \$89,224.99 in NET sale proceed funds collected via the sale of the Parade Street property owned by Macaw Investment Company, LLC ("Macaw")³;
 - iv. \$714,226.09 in funds wired to the Receivership Estate in connection with and subject to this Court's Orders entered on or about November 4, 2015 (Documents 40 and 41) regarding the HCR Value Fund, LP Amendment and Settlement with the Acrewood Parties and Capio Parties.

² The origin of these funds is more fully described in the Receiver's First Quarterly Status Report.

³ These funds are being held in escrow pending a determination of allocation among the Macaw Investment Company, LLC members, specifically, Defendant Churchville and Mr. Drew Churchville Carlin. Based upon the Receiver's review of the Macaw company documents and a discussion with Mr. Carlin, it is the Receiver's belief that Defendant Churchville is entitled to the entirety of the proceeds. The Receiver anticipates seeking instruction from this Court regarding these funds in the coming weeks.

- b. In terms of accrued administrative expenses, the Receiver has incurred the following:
- i. \$1,500.00 incurred from Sweeney Real Estate & Appraisal, One Turks Head Plaza, Suite 850 in Providence, Rhode Island. This expense is related to the appraisals for all parcels of real property owned by Churchville and/or Macaw;
 - ii. \$188.00 incurred from ParaSearch, Inc., 222 Jefferson Boulevard, Warwick, Rhode Island. This expense is related to lien searches for the Receivership Defendants;
 - iii. \$196.00 incurred from Amy Catanzaro, 321 Tunk Hill Road, Hope, Rhode Island. This expense is related to title searches for the Barrington and Narragansett properties;
 - iv. \$81.00 incurred from Tim Thibodeau, 125 Olympia Avenue, Pawtucket, Rhode Island. This expense is related to a title search for the property located at 5 Starr Lane, Rehoboth, Massachusetts (the search revealed that this property is not currently an asset of the Receivership Defendants)⁴;
 - v. \$740.00 incurred from Evidox Corporation, 207 South Street, 2nd Floor, Boston, Massachusetts. This expense is related to the upload and maintenance of the digital documents provided from the SEC;
 - vi. TBD incurred from Irving Shechtman & Co., Inc., 141 Power Road, Pawtucket, Rhode Island. This expense is related to preparation of an inventory and appraisal of the contents of the Barrington property;
 - vii. TBD incurred from Gentle Giant Storage, 125 Amaral Street, East Providence, Rhode Island. This expense is related to the monthly storage charges for items removed from the former ClearPath Wealth Management, LLC office previously located at Maple Avenue, Barrington, Rhode Island.

The Receiver has yet to identify which funds are unencumbered.

- c. As set forth above, the Receiver has collected funds totaling \$1,742,331.25. Other than the amounts set forth in Paragraph 2(b), above, the Receiver has not made any

⁴ The expense of Tim Thibodeau was paid by Donoghue Barrett & Singal, PC and by inclusion of this expense in this Fee Application the Receiver is seeking reimbursement for the advance payment made to Mr. Thibodeau.

disbursements. At this time, the Receiver cannot estimate when the case is expected to close.

- d. The Receiver has yet to establish a claims procedure; however, the Receiver expects to move the Court within the next 1-2 months to establish a claims bar date that the Receiver will recommend stay open for a period of no less than one hundred and twenty (120) days after the Court enters its Order.
- e. Description of the Assets in the Receivership Estate:
 - i. Property at 121 Nayatt Road, Barrington, Rhode Island. Appraisal: Withheld. Current Offer: None. This property is being marketed by a broker and, at this time, the Receiver intends to dispose of the property through private sale;
 - ii. Property at 6 Whitney Court, Unit 10, Narragansett, Rhode Island. Appraisal: Withheld. This property is being marketed by a broker and, at this time, the Receiver intends to dispose of the property through private sale;
 - iii. Property at 172-174 Doyle Avenue, Providence, Rhode Island. This property is owned by Macaw and Defendant Churchville is entitled to 100% of the NET sale proceeds. The Receiver is advised that this property is being marketed by a broker and, at this time, the Receiver intends to dispose of the property through private sale;
 - iv. 1998 thirty-foot Doral fiberglass powerboat (“Ripple 2”). Appraisal: Withheld. At this time, the Receiver intends to dispose of the property through private or public auction sale;
 - v. 2013 Audi Q7. Appraisal: Withheld. At this time, the Receiver intends to dispose of the property through private or public auction sale;
 - vi. 2008 GMC Yukon Denali. Appraisal: Withheld. At this time, the Receiver intends to dispose of the property through private or public auction sale; and
 - vii. Various home and office furnishings. Appraisal: Withheld. At this time, the Receiver intends to dispose of the property through a public auction sale.

- f. The Receiver is currently investigating but is not in a position to report the liquidated or unliquidated claims that are available to the Receiver (or the likelihood of success thereof). Pursuant to his September 30, 2015 Petition to Engage Financial Advisor and this Court's October 19, 2015 Order granting the Receiver's Petition (Document No. 32), the Receiver engaged a financial advisor to assist the Receiver in the financial and accounting analyses required to understand the nature of the Receivership Entities' potential claims.

3. Current and Previous Billings

- a. The Receiver currently requests approval in the amount of \$79,522.29, comprised of both compensation for fees and reimbursable expenses incurred from July 30, 2015 through and including September 30, 2015. The Receiver has not previously requested any compensation.
- b. The Court has not previously awarded any compensation.
- c. Total Hours and Amounts Billed:
- | | | |
|------|----------------------------------|-----------------------------------|
| i. | Stephen F. Del Sesto, Partner: | 101.60 hours totaling \$35,140.00 |
| ii. | William M. Dolan III, Partner: | 24.80 hours totaling \$8,680.00 |
| iii. | Nicholas L. Nybo, Associate: | 91.80 hours totaling \$22,637.50 |
| iv. | William K. Wray, Jr., Associate: | 29.20 hours totaling \$7,300.00 |
| v. | Julie A. Zaccagnini, Paralegal: | 26.30 hours totaling \$4,643.50 |
| vi. | Deborah L. Medeiros, Paralegal: | 2.80 hours totaling \$518.00 |

CERTIFICATION

The Certifying Professional has read the Application. To the best of the Applicant's knowledge, information and belief formed after reasonably inquiry, the Application and all fees and expenses therein are true and accurate and comply with the Billing Instructions (with the only exception being described in footnote number 1 of this Application). All fees contained in the Application are based on the rates listed in the Applicant's fee schedule and such fees are reasonable, necessary and commensurate with the skill and experience required for the activity performed. The Applicant has not included the amount for which reimbursement sought is the

amortization of the cost of any investment, equipment, or capital outlay (except to the extent that such amortization is included within the permitted allowable amounts set forth herein for photocopies and facsimile transmission). In seeking reimbursement for a service which the Applicant justifiably purchased or contracted for from a third party (such as copying, imaging, bulk mail, messenger service, overnight courier, computerized research, or title and lien searches), the Applicant requests reimbursement only for the amount billed to the Applicant by the third-party vendor and paid by the Applicant to such vendor. If such services are performed by the receiver, the receiver will certify that it is not making a profit on such reimbursable service.

/s/ Stephen F. Del Sesto, Receiver
Stephen F. Del Sesto, Esq.
Certifying Professional and Applicant

/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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November 30, 2015