

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

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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.)	
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**COMMISSION’S STATEMENT ABOUT
RECEIVER’S PETITION FOR INSTRUCTIONS
REGARDING THE PROPOSED “HCR VALUE FUND, L.P.
AMENDMENT NO. 1 TO THE LIMITED PARTNERSHIP AGREEMENT”**

The Receiver has submitted a Petition for Instructions Regarding the Proposed “HCR Value Fund, L.P. Amendment No. 1 to the Limited Partnership Agreement.” The Commission asks the Court to instruct the Receiver to require a provision for judicial review of offsets against money due to ClearPath or HCR Value Fund, if the Receiver enters into the contemplated Amendment agreement with Acrewood.

Presented here is a question regarding the interplay of the “Agreement Regarding Continuing HCRVF Operations” (“Continuing Operations Agreement”) and the Court’s HCR Value Fund Order (Docket No. 17). Does the Court’s Order allow for the Acrewood entities to

offset their costs related to the SEC Action from fees and other money otherwise due to Defendants, or does the Order preserve these funds for the Receivership estate? The Commission believes the Order preserves the funds for the Receivership estate.

Churchville, HCR Value Fund, L.P. and certain Acrewood entities (owning 98.75% of the HCR Value Fund Series B), entered into the Continuing Operations Agreement after the Commission moved for an asset freeze but before the Court imposed the freeze. Counsel for the Commission believes that the purpose of the Continuing Operations Agreement was to protect the Acrewood entities' investment while preserving the monies due to ClearPath.

On July 30, 2014, this Court issued the Order Concerning HCR Value Fund. After speaking with counsel for the Acrewood Entities, the Capiro entities, and the Defendants, the Commission moved for the entry of the Order. The Commission's Motion stated that the Order was "to ensure that money that is due to HCR Value by third parties may be paid to HCR Value and, once paid, will either be frozen or distributed to investors." (Docket No. 15)

Commission counsel understood from counsel for Acrewood and Capiro that placing the HCR Value Fund into receivership would harm the economic interests of both Acrewood and ClearPath. Specifically, if HCR Value Fund were placed into receivership, then certain default provisions could have been triggered, reducing the amount of money due to the Receivership Estate and the HCR Value Fund's investors. The Commission included in its proposed order that HCR Value investor entities could replace HCR Value Fund GP, LLC as general partner, and could do so "pursuant to the terms of the 'Agreement Regarding Continuing HCRVF Operations'" discussed above. The Commission requested this provision to provide a mechanism to accomplish necessary fund management tasks, such as transfers of cash from Acrewood entities to Capiro entities and back. While other options existed to avoid the default

provisions and their resulting economic harm, allowing Acrewood to take over as General Partner appeared to provide a smooth and efficient management transition.

The Commission did not specifically consider the Continuing Operations Agreement indemnification provision when moving to permit Acrewood to become general partner of HCR Value Fund. But in drafting the general partner transition provision adopted by the Court, the Commission sought to prevent that transition from diminishing the financial interests of the Defendants (and thus the Receivership estate). The Commission did not intend ask the Court to ratify an indemnification by Defendants of all Acrewood's expenses relating to this matter. To the contrary, such an indemnification could unfairly advantage Acrewood over all other investors victimized in this case, who have had to cover their own expenses in attempting to recover from Defendants.

Counsel for the Commission believes the Receiver's proposal, allowing for the judicial review of any offsets, strikes a fair balance between permitting reasonable costs incurred by the Acrewood entities as the new general partner of HCR Value Fund, and preserving the money due to the Receivership estate to be used for victim compensation.

WHEREFORE, the Commission respectfully requests that the Court instruct the Receiver to enter the version of the Amendment that provides for judicial review of any offsets against the Management Fee or other payments or distributions due to ClearPath or HCR Value Fund GP, LLC, by Acrewood LPs, CP Investor and Acrewood Holdings.

Respectfully submitted,

SECURITIES AND EXCHANGE COMMISSION
By its attorneys,

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DATED: October 2, 2015