

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.)

**ORDER GRANTING MOTION TO ESTABLISH A CLAIMS BAR DATE, APPROVE
THE MANNER AND FORM OF NOTICE OF CLAIMS BAR DATE AND APPROVE
THE PROCESS FOR SUBMITTING CLAIMS**

This matter came before the Court on the “Receiver’s Motion to Establish a Claims Bar Date, Approve the Manner and Form of Notice of Claims Bar Date and Approve the Process for Submitting Claims” (hereinafter “Motion”) and the Memorandum of Law in Support thereof, filed by Stephen F. Del Sesto, Esq., as 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”). Having considered the Receiver’s Motion and any Objections related thereto,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is granted as described herein.
2. **Claims.** For the purposes of this Order, a “Creditor Claim” is defined as: (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, mature, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, against one or more of the Receivership Entities; or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right of payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, mature, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, against one or more of the Receivership Entities. For purposes of this Order, an “Investor Claim” is defined as a right arising from a prior or current investment in or through one or more of the Receivership Entities, including, but not limited to, any of the series funds, limited partnerships and/or limited liability companies previously or currently owned, managed or controlled by one or more of the Receivership Entities. Such series funds, limited partnerships and/or limited liability companies include, but are not limited to, investments previously or currently referred to as: MSF I / Feingold O’Keeffe Distressed Loan Fund, L.P.; MSF I / Feingold O’Keeffe Distressed Loan Fund, L.P. (CPAI Series); MSF I / Solesbees Equipment & Attachments LLC; MSF I / Oppenheimer & Co. Public Markets; MSF I / Hastings Equity Fund II, L.P.; MSF I / University Equity; MSF I / JER Receivables LLC (Xi); MSF II / Receivable Partners; MSF II / PharmLogic LLC (f.k.a. Drug Discovery Fund I LLC); MSF II / UPA Fund LLC; MSF II / Legacy Futures Fund, L.P. (a.k.a. Hawksbill); MSF II / Altegris Winton Futures Fund, L.P.; MSF III / Legacy Futures Fund, L.P. (a.k.a. Hawksbill); MSF III / Altegris Winton Futures Fund, L.P.; MSF III / Receivable Partners Loan 1; MSF III / Receivable Partners Loan 2; MSF III / Receivable

Partners Loan 3; MSF III / Receivable Partners Loan 4; MSF III / Receivable Partners Loan 5; MSF III / Receivable Partners Loan 6; MSF III / Receivable Partners Loan 7; MSF III / PharmLogic LLC (f.k.a. Drug Discovery Fund I LLC); MSF III / UPA Fund LLC and MSF III / JER Receivables LLC (Omicron) (Creditor Claims and Investor Claims may be hereinafter referred to collectively as “Claims”). Persons believing that they had an investment with an entity managed by Mr. Churchville and/or ClearPath Wealth Management LLC that was not listed above should nonetheless complete an Investor Claims Form and/or contact the Receiver to inquire further.

3. **Claimants.** For the purposes of this Claims Bar Date Order, a “Claimant” is defined as and includes any person or entity (including, without limitation, individuals, partnerships, corporations, estates, trusts, and governmental units) that holds a Creditor Claim or an Investor Claim against one or more of the Receivership Entities.

4. **Bar Date.** The Court hereby establishes 5:00 p.m. Eastern Standard Time on the date that is one hundred twenty (120) days after the entry of this Claims Bar Date Order as the deadline for Claimants to submit Creditor Proofs of Claim and/or Investor Proofs of Claim against the Receivership Entities (hereinafter “Bar Date”).

5. **Claims Procedure.** The following Claims Procedures, including the Notices, the Creditor Proof of Claim Form, and the Investor Proof of Claim Form (each defined below), are approved:

A. Eligibility to Submit Proofs of Claim. Proofs of Claim shall be submitted by all persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts and governmental units) that are Claimants and believe that they are owed any money by or have a right to distribution (including

distribution of a debt, equity or hybrid type interest) from any of the Receivership Entities, regardless of whether the Claim at issue has been acknowledged by the Receiver or whether the Claim at issue is held with or through any person or entity or based on primary, secondary, direct, indirect, secured, unsecured or contingent liability. Any persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts and governmental units) that hold an Investor Claim shall file a Proof of Claim regardless of whether the current or former holder of such Investor Claim has received from the Receivership Entities any distribution of funds on account thereof including, but not limited to, interest, income, redemption or return of capital and regardless of whether any amount of such holder's Investment Claim remains outstanding and unpaid.

- B. Administrative and Professional Claims. Creditors holding claims based on the provision of goods or services to the Receivership Entities or the Receiver at the request of the Receiver ("Administrative Claims") arising after the July 30, 2015 appointment of the Receiver will not be required to submit Proofs of Claim on or before the Bar Date and will not be subject to the Bar Date. Additionally, the Receiver and the retained professionals will not be required to submit Proofs of Claim on or before the Bar Date, and all claims of the Receiver and retained professionals ("Professional Claims") will be addressed in accordance with the July 30, 2015 Order Appointing Receiver (Document #16) and other relevant orders of this Court.
- C. Notice. To attempt to reach both known and unknown potential Claimants, the following efforts to ensure notice to the broadest group of potential Claimants are approved:

i. Notice by Electronic Mail and Regular Mail. The Receiver will serve all known potential Claimants by electronic mail, or by regular mail (only if no electronic mail address is known), within twenty (20) business days after entry of this Order with a notice of the Bar Date and the procedures for submitting a Proof of Claim, in the form of the notice attached to the Motion as **Exhibit B** (“Bar Date Notice”), a Creditor Proof of Claim in the form of the document attached to the Motion as **Exhibit C** (“Creditor Proof of Claim Form”) and an Investor Proof of Claim in the form of the document attached to the Motion as **Exhibit D** (“Investor Proof of Claim Form”). With respect to known potential Claimants for which the Receiver does not have an electronic mail address, the Receiver will serve those located in the United States by United States first class mail, postage pre-paid, and will serve those located outside the United States by any method the Receiver deems appropriate in his reasonable discretion. With respect to those potential known Claimants that have communicated with the Receiver through counsel or that the Receiver has been advised are represented by counsel, the Receiver will serve such potential known Claimants through their counsel according to the methods described above.

ii. Notice by Publication. The Receiver shall publish, within twenty (20) days after the entry of this Order, a notice of the Bar Date and the procedures for submitting a Proof of Claim in the form of the notice attached to the Motion as **Exhibit E** (“Bar Date Publication Notice”) on two (2) days that are two weeks apart in the following publications: The Providence Journal and the Wall Street Journal. The Receiver will publish notice on his dedicated receivership website:

<http://dbslawfirm.com/receivership/churchville-clearpath>. The Receiver will also publish any such notice in any other forums suggested by the Court and/or the United States Securities and Exchange Commission.

iii. Notice upon Inquiry. The Receiver will promptly provide the Bar Date Notice, Creditor Proof of Claim Form and Investor Proof of Claim Form to any Claimant who makes a written request for such documents to the Receiver's electronic mail address (clearpathreceiver@dbslawfirm.com) or to his physical address at One Cedar Street, Suite 300 in Providence, Rhode Island.

D. Procedures for Submitting Proofs of Claim. Each Claimant must submit a completed and signed Creditor Proof of Claim Form and/or Investor Proof of Claim Form under penalty of perjury and evidencing such Claimant's Claim, together with supporting documentation (collectively the "Proof of Claim") to the Receiver in the manner indicated below so that such Proof of Claim is actually received on or before the Bar Date. Proofs of Claim may be submitted to the Receiver (a) in person, by courier, overnight service or by mail addressed to Stephen F. Del Sesto, Esq., Court-appointed Receiver, Donoghue Barrett & Singal, P.C., One Cedar Street, Suite 300, Providence, Rhode Island 02903; or (b) by electronic mail, as an attachment in portable document format (.pdf) to clearpathreceiver@dbslawfirm.com. Proofs of Claim filed in any other manner, including with the Court, will not be considered properly submitted. Prior submissions by Claimants will not be treated as properly filed Claims; such Claimants must submit completed and signed Creditor Proof of Claim and/or Investor Proof of Claim Forms to the Receiver on or before the Bar Date.

E. Contents and Form of Proof of Claim. Each Proof of Claim submitted to the Receiver must conform substantially to and contain all of the information sought in the Creditor Proof of Claim Form and/or the Investor Proof of Claim Form approved by the Court. The Receiver reserves the right to reject any Creditor Proof of Claim Form or Investor Proof of Claim Form that is altered, not filled out completely, not properly executed by the correct legal entity or individual or fails to include reasonable documentation to support the Claim(s). The following rules will apply to the preparation and submission of Proofs of Claim:

- i. General.* Each Creditor Proof of Claim Form and/or Investor Proof of Claim Form must be signed by the Claimant or the authorized agent of the Claimant. The Claimant must attest under penalty of perjury that the information in the form is true and correct. Each form must be legible, written in English and denominated in United States currency.
- ii. Creditor Proof of Claim.* Each Creditor Proof of Claim Form shall identify the amount of each such claim, the date on which such claim arose, and the date and amount of any payments hereinbefore received by such Claimant from one or more of the Receivership Entities on account of such claim and/or prior claims against the Receivership Entities.
- iii. Investor Proof of Claim.* Each Investor Proof of Claim shall state the dates and amounts of each investment, the name of the investment, series fund, limited partnership or limited liability company in which the investment was made, the dates and amounts of any interest, income, distribution, redemptions and/or return of capital received by such investor or his, her or its duly authorized

representative on account of such investment, and the amount of any remaining unpaid or unreturned investment.

iv. Supporting Documentation. Each Claimant should attach to each Creditor Proof of Claim Form or Investor Proof of Claim Form copies of any and all documents, including any electronic data, available to the Claimant that substantiate the Proof of Claim, including, but not limited to, (a) copies of personal checks, cashier's checks, wire transfer advices and other documents evidencing the investment funds; (b) copies of signed investment contracts; (c) copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, or other evidence of perfection of liens; and other documents evidencing the amount and basis of the Claim; and (d) a chronological accounting of all money received by the Claimant from any Receivership Entity or the Receiver, whether such payments are denominated as the return of principal, interest, commissions, finder's fees, sponsor payments or otherwise; copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, or other evidence of perfection of liens; and other documents evidencing the amount and basis of the Claim. If supporting documentation is not available, the Claimant must attach an explanation of why the documentation is unavailable. Lack of supporting documentation will not necessarily act as a bar to an otherwise valid claim.

- F. Effect of Failure to Submit Proof of Claim On or Before the Bar Date. Any Claimant who is required to submit a Proof of Claim, but fails to do so in a timely manner or in the proper form shall (i) be forever barred, estopped, and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Claim against the Receiver and the estates or property of the Receivership Entities and their respective estates or property; (ii) be denied standing to object to any distribution plan proposed by the Receiver on account of such Claim; (iii) be denied any distributions under any distribution plan implemented by the Receiver on account of such Claim; and (iv) not receive any further notices on account of such Claim. Holders of Investment Claims who have received any distributions on account of such claims, including income, interest, redemptions and/or return of capital, who fail to file a timely and properly executed Investor Proof of Claim shall be subject to the terms of this paragraph including holders of such Investment Claims who may hereinafter be subject to suit by the Receiver for recovery of any distributions made to such investor by any of the Receivership Entities prior to the commencement of this Receivership. The Receivership Entities and their respective property or estates will be discharged from any and all indebtedness or liability with respect to untimely or improperly formatted Claims.
- G. Request for Additional Information on Submitted Proofs of Claim. If, after receiving a Creditor Proof of Claim or an Investor Proof of Claim, the Receiver determines that he needs additional information to review the Claim, the Receiver may contact the Claimant by telephone or email to request such additional information. Furthermore, all Claimants may be required to submit to a recorded interview by the Receiver if the

Receiver, in his discretion, requests an interview to facilitate the processing of the Claim.

- H. Claim Disputes and Resolutions. The Receiver will inform the Court of all Claims he receives through the Claims Procedures and pursuant to Paragraph 55 of the Court's July 30, 2015 Order Appointing Receiver. (Document #16). The Receiver will review all the Claims properly submitted, negotiate with Claimants regarding any disputed Claims and attempt to resolve all such Claims. The Receiver has the authority to compromise and settle any Claim, at any time, as appropriate, subject to the Court's approval sought in connection with a proposed distribution plan, and all parties are directed to cooperate with the Receiver to the maximum extent possible to achieve swift resolution of disputes concerning Claims. In the event that a Claimant and the Receiver are unable to resolve a dispute over a Claim, the Receiver may move the Court for summary disposition of the dispute.
- I. Reservation of Rights. Nothing in these Claims Procedures is intended to prejudice the Receiver's right to dispute, or assert offsets or defenses as to the nature, amount, liability, classification or other against, any amount asserted in any Proof of Claim. Furthermore, nothing in these Claims Procedures is intended to preclude the Receiver from objecting to any Proof of Claim on any ground.

IT IS SO ORDERED.



William E. Smith
Chief Judge
Date: September 23, 2016