

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-00191-S-LDA

May 17, 2019

REVISED NOTICE TO ALL CLASS 3 INVESTOR CLAIMANTS

RE: Receiver’s ADJUSTED Class 3 Claim Analysis

Why am I receiving this Revised Notice?

This Notice is being provided to All Class 3 Investor Claimants (the “Claimants”). If you are receiving this Notice it is because (i) the Receiver, through his review of all books, records and other documentation available, has identified you as a person or entity that invested funds with Defendants Patrick Churchville or ClearPath Wealth Management, LLC (collectively “Defendants”); or (ii) you submitted a Proof of Claim with the Receiver indicating you believe you invested funds with Defendants; or (iii) as a Class 3 Investor Claimant you may be entitled to a distribution (now or in the future) from the Estate based upon your claim and the Rising Tide calculation yet to be calculated. In connection with your Class 3 Claim (the “C3C”), enclosed in this package is a copy of the portion of the ADJUSTED and REVISED “Detailed Analysis Worksheet per Each Class 3 Claim” which relates to your C3C (“Your ADJUSTED Claim Analysis”).

In October 2018, you received the original, detailed claim analysis and subsequently received a revised, detailed claim analysis from the Receiver in December 2018/early January 2019. In addition, you may have received a Rising Tide calculation as well. However, since that time and based upon the Receiver's receipt of Class 3 Claimant objections and/or questions regarding those analyses, the Receiver and the Court-approved Financial Advisors were required to and have ADJUSTED and REVISED the Class 3 Claim Analysis for all investors. These revisions take the valid objections and questions raised by various investors into consideration (i.e. treating individual claims different from IRA claims for that same investor rather than combining each into 1 claim, and the addition of investments not tainted by Defendants' fraud solely for the purpose of tracking all investments made by and distributions made to Class 3 Claimants (described in further detail below)), and clarify, further detail or add/supplement some of the data provided on the original claim analysis. As you would assume, these revisions to the claim analysis, once finalized, will be used to prepare the Rising Tide calculations for distributions. *PLEASE NOTE, the Receiver will not be preparing or distributing your Rising Tide calculation until the claims analysis is finalized by agreement or approved by the Court.* Of course and similar to before, should you have difficulty understanding the information contained in Your ADJUSTED Claim Analysis you may contact the Receiver via email at ClearPathReceiver@PierceAtwood.com.

What has changed on the Adjusted Detailed Claim Analysis?

Your ADJUSTED Claim Analysis has been revised to reflect the following changes:

1. Individual (person or entity) Class 3 Claims have been separated and distinguished from IRA and similar Class 3 Claims. Simply put, an individual's claim and their IRA, Trust or similar claim are treated as separate and distinct Class 3 Claims/claimants rather than combined into one single claim for that person or entity;
2. All investments, inclusive of (i) legitimate investments tainted by Defendants' fraud; (ii) purely fraudulent investments; and (iii) legitimate investments not tainted by Defendants' fraud, are now all included on the ADJUSTED Claim Analysis solely for the purpose of tracking all contributions made by and distributions made to Class 3 Claimants. Thus, the ADJUSTED Claim Analysis reflect **all** monies invested – *both fraud related and non-fraud related* - by you **and** distributed or rolled-over on your behalf (authorized or not);
3. The Receivables Partners loans ("RP") – investors were "credited" back any "fees" charged by Defendants. Thus, because this investment was purely fraudulent the amount of a Class 3 Claim related to RP includes the full amount invested without reduction for fees (different as compared to FOK, OPCO, Hastings, Solesbees);
4. JER – the JER investment is not included as part of the Class 3 Claims. However, any NET "gain" from a JER investment (i.e. the JER investment amounts are less than the JER distributions) has been credited against (clawed back) other Class 3 Claim losses. (by way of example, if a Class 3 Claimant has non-JER losses of \$500,000 but they had a JER NET gain of \$50,000 (i.e. investment of \$100,000 and distribution of \$150,000 = NET gain of \$50,000), the Class 3 Claim would be reduced to \$450,000);
5. The Omicron and Xi JER series are now identified in the ADJUSTED Claim Analysis; and
6. Unallocated Class 3 Claim funds (i.e. funds that should have been invested by Defendants but were not) have been added to claims.

If applicable to you, Your ADJUSTED Claim Analysis reflects these changes and your “Summary” “NET LOSS/(WIN)” reflects these revisions. **PLEASE NOTE, the changes made to Your ADJUSTED Claim Analysis MAY NOT result in any change to your recoverable claim amount.**

Why is there no revised Rising Tide Calculation?

At this time, it is the Receiver’s objective for Class 3 Claimants to either acknowledge your agreement with Your ADJUSTED Claim Analysis, or contest the same. The calculation is complex and even minor revisions (up or down) to a single claim impact all other claims and any related distributions. Therefore, until the ADJUSTED Claim Analysis is finalized the Receiver will not be preparing the Rising Tide calculation. In the future and once the ADJUSTED Claim Analysis is finalized, the Receiver will be providing all investors with an updated Rising Tide calculation which will indicate the amount and calculation of the proposed distribution to you, if any, based on the final version of Your ADJUSTED Claim Analysis.

If I am not eligible to receive a Distribution do I still have to provide a W-9 to the Receiver?

Generally, yes. Although you may not be eligible to receive a distribution in an initial distribution payment round, you may become eligible during subsequent distribution periods. Providing a W-9 now will avoid delay for any possible, subsequent distribution. **However, please note that providing a W-9 is an acknowledgment that you agree with Your ADJUSTED Claim Analysis AND submission of the W-9 to the Receiver is an acknowledgment of your waiver of any and all objections to Your ADJUSTED Claim Analysis.**

Who will distribution checks be issued to?

The Receiver will issue distribution checks to the person or entity indicated on the submitted W-9. The W-9 must be submitted by the actual Class 3 Claimant (i.e. person or entity) or the custodian or trustee acting for the benefit of the Class 3 Claimant. Please consult your accounting or retirement professional to discuss ways to limit or avoid tax consequences related to distributions. **Please note, distributions will be based upon the Rising Tide Calculations yet to be calculated. Please also note that you cannot assign your Class 3 Claim to a third party.**

Because the Receiver is still addressing objections from Class 3 Claimants and the resolution of those objections may further impact the Rising Tide calculation, the Court has authorized the Receiver to distribute fifty percent (50%) of the amount yet to be determined. The balance of the distribution amount (as may be adjusted) will be delivered on a subsequent distribution date.

I was previously designated as an “Insider” but this Notice does not include that designation, am I no longer designated as an “Insider”?

Generally, the Receiver’s initial designation of certain Class 3 Claimants as “Insiders” remains unchanged by this Revised Notice; **unless**, you and the Receiver have resolved the “insider”

concerns and the Receiver has formally notified you of that resolution. Please note that if you previously received Notice of your designation as an “Insider” and did not object to that designation, your status as an “Insider” has already been confirmed.

IMPORTANT

Your receipt of this Notice DOES NOT mean that you are eligible to receive a distribution as part of the Receiver’s “Initial Distribution”. It is the Receiver’s objective for Class 3 Claimants to either acknowledge your agreement with Your ADJUSTED Claim Analysis, or contest the same. In the future, the Receiver will be providing an updated Rising Tide calculation which will indicate the amount and, if appropriate, calculation of any proposed distribution to you, if any, based on Your final ADJUSTED Claim Analysis. EVEN IF YOU ARE ENTITLED TO A DISTRIBUTION, NO DISTRIBUTIONS WILL BE MADE UNTIL THE RECEIVER IS PROVIDED A PROPERLY EXECUTED W-9.

Thank you.

Sincerely,

Stephen F. Del Sesto, Esq.
Court-appointed Receiver

Enclosure