

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

_____	)	
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.	)	
_____	)	

**PLAINTIFF’S OPPOSITON TO  
DEFENDANT PATRICK CHURCHVILLE’S  
MOTION TO WITHDRAW AND TO STAY RELEASE OF UNTAINTED FUNDS**

The Securities and Exchange Commission opposes Defendant Patrick Churchville’s Motion to Withdraw Without Prejudice and Stay Release of Untainted Funds (ECF No. 137).

**I. Motion to Withdraw Without Prejudice**

Churchville seeks to withdraw without prejudice his Motion to Modify the Restraining Order to Release Assets for the Defense of the Related Criminal Case in his civil case.

Churchville’s request is too late. This Court denied his Motion on November 20, 2018, as

improperly filed *pro se* by a defendant who was, at that time, represented by counsel.<sup>1</sup> Thus, this part of Churchville's Motion is moot and should be denied.

Moreover, Churchville's Motion to Modify the Restraining Order to Release Assets is properly adjudicated in the civil case, and Churchville gives no reason why it should be otherwise. Churchville wishes to modify the asset freeze order sought by the Commission and entered in the civil case. Making allowances for Churchville's *pro se* status, he may be confused as he seeks funds for criminal counsel and, as a result, may think the criminal court would need to decide his motion. But if Churchville refiled his Motion in the criminal case, the Commission would need to seek permission to intervene in that matter, and then request either that the Court transfer the motion back to the civil case or permit the Commission (and the Receiver) to oppose the matter in the criminal case. So permitting Churchville to withdraw his already-adjudicated motion and refile it in the criminal case would be a pointless exercise that would only waste the parties' time opposing the motion there and, potentially, delay the relief Churchville's victims deserve to receive.<sup>2</sup> Were Churchville's Motion to Modify the Restraining Order not already decided, he could of course withdraw it. But that withdrawal should only be with prejudice so as not to waste the time of this Court, the Commission, the Receiver, and the victims, as well as the Receivership Estate assets expended to oppose Churchville's motions.

## **II. Motion for Stay**

Churchville wants to delay the release of funds to his victims pending adjudication of his motion for funds by the criminal court. There should be no stay for the same reasons that there should be no modification to the asset freeze: (1) the assets Churchville identifies are either

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<sup>1</sup> Note that Churchville's motion to modify the asset freeze actually included the civil docket number, indicating that it should be docketed in the civil case.

<sup>2</sup> Additionally, as this Court knows, the Hon. Chief Judge Smith presides over both the civil and criminal case. It is unclear what Churchville would gain from transferring his Motion to the criminal case.

tainted or have no value, and (2) Churchville's claimed need for counsel funds is defective. The Commission has briefed these points in its Opposition to Churchville's Motion to Modify the Restraining Order (ECF No. 124). In addition, the Commission adopts and joins in the arguments made by the Receiver in its objection to this Motion (ECF No. 139).

**III. Conclusion**

For the reasons stated above, the Commission respectfully requests that this Court deny Churchville's Motion

Respectfully submitted,

SECURITIES AND EXCHANGE COMMISSION  
By its attorneys,

/s/ Marc J. Jones

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Senior Trial Counsel

Attorney for Plaintiff

SECURITIES AND EXCHANGE COMMISSION

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DATED: December 12, 2018

**Certificate of Service**

I, Marc Jones, hereby certify that I filed the above document on December 12, 2018, 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. In addition, this document will be sent, via first class mail, postage prepaid, on December 13, 2018 to Mr. Patrick Churchville, Registration Number 113540070, FCI Berlin, Federal Corr. Institution, PO Box 9000, Berlin, NH 03570.

/s/ Marc Jones