

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

FILED

JUL 05 2016

**U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND**

UNITED STATES OF AMERICA

Criminal Case No. _____

v.

In violation of 18 U.S.C. § 1343 and
26 U.S.C. § 7201

PATRICK CHURCHVILLE

INFORMATION

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The United States Attorney charges that:

Introduction

At all times material to this Information:

1. Defendant PATRICK CHURCHVILLE was the sole owner and manager of ClearPath Wealth Management, LLC ("ClearPath"). ClearPath's office was located in Providence, Rhode Island and later Barrington, Rhode Island.
2. ClearPath was registered with the United States Securities and Exchange Commission as an investment advisor from approximately January 2008 through November 16, 2012. Thereafter, defendant CHURCHVILLE registered ClearPath as an investment advisor with the State of Rhode Island.
3. As the President and sole owner of ClearPath, defendant CHURCHVILLE served as an investment advisor to individual clients and to pooled investment vehicles, including but not limited to, directly and indirectly advising individuals as to the value of securities and whether to invest, purchase and sell securities
4. ClearPath was the manager of several limited liability companies which were the

general partners of three affiliated private funds, MultiStrategy Fund I, MultiStrategy Fund II, MultiStrategy Fund III (collectively the “Funds” and individually “MSF I, MSF II, and MSF III”).

5. ClearPath was also the adviser to the Funds. As manager and sole owner of ClearPath, defendant CHURCHVILLE controlled the general partner of each of the funds, and therefore, the funds themselves. MSF I, MSF II, and MSF III retained ClearPath to provide investment advice, in exchange for management fees, placement fees and, in the case of MSF III, a success fee.

6. Investors were limited partners in the funds, pursuant to Limited Partnership Agreements (“LPAs”) between the limited partners and the funds.

7. ClearPath and defendant CHURCHVILLE organized the Funds in a Series structure. The LPAs for each Fund provided that the Fund assets and capital would be divided into separate Series, which in turn would be accounted for as subpartnerships within the Fund. In practice, each Series in the ClearPath funds was comprised of a distinct portfolio of investments, and investors subscribed specifically to the particular Series in which they wanted to invest. Because each Series within the Funds was supposed to be accounted for as a separate sub-partnership, defendant CHURCHVILLE provided investors with account statements and other investment materials specific to their Series. Distributions attributable to redemption of the investments associated with a particular Series were to be made only to those investors participating in those Series, in proportion to their respective investments. In essence, the investors owned investments in a particular portfolio of companies or funds, under the umbrella of the overall Fund, which paid ClearPath its management fees and other compensation.

8. Beginning in the spring of 2008 and through October 2011, defendant

CHURCHVILLE and ClearPath made a series of investments with JER Receivables, LLC an entity formed in New Jersey.

9. ClearPath investor funds were provided to JER Receivables pursuant to "Participation Agreements" whereby ClearPath would loan money to JER Receivables to purchase a portfolio of health care receivables. The investments were represented to provide an approximate 30 percent return rate over a period of sixteen months, after which the principal was to be repaid and the Participation Agreements would be terminated.

10. ClearPath invested approximately \$18 million with JER Receivables, using nine Separate Participation Agreements, each identified by a different Greek letter name. The source of the funding was the various MSF funds.

11. During 2009, MSF I made its initial investment in the Feingold O'Keeffe Distressed Loan Fund, L.P. ("Feingold O'Keeffe"). This was the largest Portfolio Investment of MSF I representing approximately 57%, 62% and 54% of the total Portfolio Investments of MSF I for 2009, 2010 and 2011, respectively. The balance of Feingold O'Keeffe in MSF I at December 31, 2011 was \$10,555,382.

COUNT 1 – WIRE FRAUD 18 U.S.C. § 1343

Scheme and Artifice to Defraud

12. The United States Attorney realleges Paragraphs 1 through 11 of this Information as if fully set forth herein.

13. Beginning in or about July 2011, and continuing until in or about December 2014, in the District of Rhode Island and elsewhere, defendant PATRICK CHURCHVILLE did knowingly and willfully devise and intend to devise a scheme and artifice to defraud and to obtain money and property in the amount of approximately \$2.5 million from ClearPath

investors by means of materially false and fraudulent pretenses, representations, and promises, as a means to purchase his personal residence in Barrington, Rhode Island.

Object of the Scheme and Artifice to Defraud

14. It was the object of the scheme and artifice to defraud to obtain approximately \$2.5 million from investors in order to purchase defendant CHURCHVILLE's personal residence in Barrington, Rhode Island.

Manner and Means

15. It was part of the scheme and artifice to defraud that in the summer of 2011, defendant CHURCHVILLE was soliciting investors for the "Oppenheimer Public Markets Series," (hereinafter "OPCO in MSFI") by informing investors that ClearPath intended to invest in a balanced portfolio of publicly-traded equities and bonds.

16. It was further part of the scheme and artifice to defraud that beginning on or about August 12, 2011, contrary to the representations defendant CHURCHVILLE had made to investors, defendant CHURCHVILLE invested the OPCO money in government and agency bonds.

17. It was further part of the scheme and artifice to defraud that on the same day defendant CHURCHVILLE deposited the OPCO investors' cash, he borrowed \$2.5 million on margin, using the government and agency bonds as collateral and thus obligating, without their knowledge, investors to repay the loan.

18. It was further part of the scheme and artifice to defraud that on August 12, 2011, the same day he borrowed the \$2.5 million using the OPCO investors' money as collateral, defendant CHURCHVILLE caused the transfer of the \$2.5 million to ClearPath's main operating

account at Bank of America, and later that day, he caused the transfer of \$2,292,954.04 to a Rhode Island title company in order to purchase his home in Barrington, Rhode Island.

19. It was further part of the scheme and artifice to defraud that defendant CHURCHVILLE concealed these misappropriations through a series of false and misleading accounting entries on ClearPath's ledgers, making no accounting entries at all to reflect the loan against the OPCO investments.

20. It was further part of the scheme and artifice to defraud that in early 2012 when requested by OPCO to repay the margin loan, defendant CHURCHVILLE failed to do so and thus caused OPCO to apply investor funds to pay the loan.

21. It was further part of the scheme and artifice to defraud that even after there was no money remaining in the OPCO accounts and the accounts were closed, defendant CHURCHVILLE lied to investors and falsely informed them that their OPCO investment still existed.

Execution of the Scheme to Defraud

22. On or about August 12, 2011, in the District of Rhode Island and elsewhere, the defendant CHURCHVILLE, for the purpose of executing aforesaid scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowingly transmitted and caused to be transmitted by means of wire communication in interstate commerce from Rhode Island to other locations outside of Rhode Island, certain writings, signs, signals and sounds, to wit a wire transfer of \$2.5 million from OPCO account x3163 to ClearPath's main Bank of America operating account x2978.

All in violation of Title 18, United States Code Section 1343.

COUNTS 2 through 5 – WIRE FRAUD 18 U.S.C. § 1343

Scheme and Artifice to Defraud

23. The United States Attorney realleges Paragraphs 1 through 22 of this Information as if fully set forth herein.

24. Beginning in or about February 2011, and continuing until in or about December 2014, in the District of Rhode Island and elsewhere, defendant PATRICK CHURCHVILLE did knowingly and willfully devise and intend to devise a scheme and artifice to defraud and to obtain money and property in the amount of approximately \$21 million from ClearPath investors by means of materially false and fraudulent pretenses, representations, and promises, as a means to hide the fact that he had lost millions of dollars of investor funds in the JER Receivables investment and to enable him to continue to operate as an investment advisor.

Object of the Scheme and Artifice to Defraud

25. It was the object of the scheme and artifice to defraud to obtain approximately \$21 million from investor funds in order to hide the fact that he lost millions of dollars of investor funds in the JER Receivables investment and enable him to continue to operate as an investment advisor and collect the fees associated with that position.

Manner and Means

26. It was part of the scheme and artifice to defraud that beginning in June 2010, defendant CHURCHVILLE became aware that the series of investments ClearPath had made in JER Receivables were no longer producing returns and that ClearPath had been subjected to fraudulent and misleading representations by individuals associated with the JER Receivable Investments as to the expected rates of return and other aspects of the investments. Defendant

CHURCHVILLE did not notify his investors of this development at or near the time he learned of it.

27. It was further part of the scheme and artifice to defraud that in order to hide the fact that ClearPath lost substantial funds in the JER Receivable investments, defendant CHURCHVILLE misappropriated previously dedicated investor funds and used those funds to pay off the JER Receivables investments, without informing the original investors that he had done so.

28. It was further part of the scheme and artifice to defraud that in order to accomplish this, the defendant worked in concert with the principal of JER Receivables, Person A, and used another of Person A's entities, Receivable Partners, in an attempt to hide his losses.

29. It was further part of the scheme and artifice to defraud that defendant CHURCHVILLE falsely told investors that another one of his funds, the ClearPath MultiPath Strategy Fund III, would "invest" in Receivable Partners when in truth defendant CHURCHVILLE intended to use the investor money to pay back to JER Receivables investors.

30. It was further part of the scheme and artifice to defraud, that beginning in February 2011, defendant CHURCHVILLE created a series of loan agreements with Receivable Partners which falsely stated that the purpose of the loans was to fund Receivable Partners purchase of health care receivables, when in fact defendant CHURCHVILLE intended to use the money to pay off the investments ClearPath had previously made with JER Receivables and which were no longer paying out.

31. It was further part of the scheme and artifice to defraud that defendant CHURCHVILLE created a total of nine Receivable Partners loan agreements which falsely represented the rates of return and payment schedule for payout on the investments.

32. It was further part of the scheme and artifice to defraud that defendant CHURCHVILLE used a combination of investor funds already under his control as well as new investor money to fund the fake Receivable Partners investments and misrepresented to investors the purposes to which their funds would be put.

33. It was further part of the scheme and artifice to defraud that in order to induce new investors to commit funds to the Receivable Partners investments, defendant CHURCHVILLE falsely told investors that ClearPath's previous investments with JER Receivables had been successful and produced high rates of return.

34. It was further part of the scheme and artifice to defraud that in the beginning of the Receivable Partners loan series, defendant CHURCHVILLE directed the transfer of investor funds to Receivable Partners, then to JER Receivables and then back to ClearPath in order to create the appearance that the money coming into ClearPath from JER was payment of the principal and interest owed on the JER loans.

35. It was further part of the scheme and artifice to defraud that when the JER Receivable investors were paid back with Receivable Partners' money, defendant CHURCHVILLE lied to the JER investors and told them the money was repayment of the principal and interest they were owed on the JER Receivable loans.

36. It was further part of the scheme and artifice to defraud that when payments to Receivable Partners investors became due, defendant CHURCHVILLE used investor funds he had obtained for later Receivable Partners loans to make payments due on the earlier loans in order to conceal that he had used the earlier Receivable Partners loan money to pay back the JER investors.

37. It was further part of the scheme and artifice to defraud that in order to obtain funds to pay back early Receivable Partners, on or about December 22, 2011, defendant CHURCHVILLE applied for a \$7 million dollar line of credit with Commerce Bank using MSF I's investment in Feingold O'Keeffe as collateral.

38. It was further part of the scheme and artifice to defraud that in order to obtain the Commerce Bank line of credit, defendant CHURCHVILLE falsely informed Commerce that the purpose of the line of credit was to obtain "working capital to leverage investment."

39. It was further part of the scheme and artifice to defraud that defendant CHURCHVILLE did not inform MSF I investors that he intended to use the Commerce Bank loan proceeds to in part to pay off Receivable Partners investors.

40. It was further part of the scheme and artifice to defraud that defendant CHURCHVILLE lied to Receivable Partners investors and told them they were receiving interest payments on the loans, when in fact the money they were receiving was the Commerce Bank loan money defendant CHURCHVILLE had recycled through Receivable Partners.

Execution of the Scheme to Defraud

41. On or about the dates specified below, in the District of Rhode Island and elsewhere, the defendant PATRICK CHURCHVILLE, for the purpose of executing aforesaid scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowingly transmitted and caused to be transmitted by means of wire communication in interstate commerce from Rhode Island to other locations outside of Rhode Island, certain writings, signs, signals and sounds, to wit the following wire transfers:

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>Wire From</u>	<u>Wire To</u>
2	September 9, 2011	\$2,071,430.90	ClearPath MSF III BOA account #5672	Receivable Partners TD Ameritrade account#2972
3	September 28, 2011	\$313,514.25	Receivables Partners TD Ameritrade account #2972	ClearPath MSF III BOA account #5672
4	January 18, 2012	\$1,500,000.00	ClearPath MSF I Commerce Bank account #1709	Receivable Partners TD Ameritrade account #2972
5	January 19, 2012	\$155,537.32	Receivable Partners TD Ameritrade account #2972	ClearPath MSFIII BOA account #5672

All in violation of Title 18, United States Code Section 1343.

COUNT 6 – TAX EVASION 26 U.S.C. § 7201

42. The United States Attorney realleges and incorporates by reference Paragraphs 1 through 41 of this Information as though fully set forth herein.

43. On or about August 12, 2011, defendant PATRICK CHURCHVILLE fraudulently obtained approximately \$2.5 million in income in order to purchase his home in Barrington, Rhode Island.

44. On or about August 28, 2012, in the District of Rhode Island, defendant CHURCHVILLE, who during the calendar year 2011 was married, did willfully attempt to evade and defeat a part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 2011, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S, Individual Tax Return, Form 1040, on behalf of himself and his spouse, which was filed with the Internal Revenue Service. In that

return, it was stated that their joint taxable income for the calendar year was the sum of \$617,628, and that the amount of tax due and owing thereon was the sum of \$136,456. In fact, as he then and there knew, their taxable income for the calendar year was in excess of the amount stated on the return, and upon the additional taxable income, namely the approximately \$2.5 million in income he received from his theft of investor funds, substantial additional tax in the amount of \$820,528 was due and owing to the United States of America.

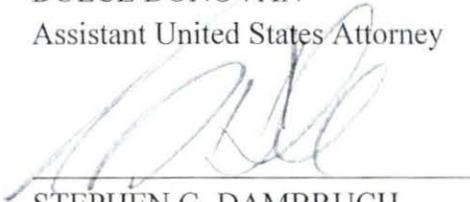
All in violation of Title 26, United States Code, Section 7201.

PETER F. NERONHA
United States Attorney

By:



DULCE DONOVAN
Assistant United States Attorney



STEPHEN G. DAMBRUCH
First Assistant United States Attorney

DATED: JULY 5 , 2016