

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 79369 / November 21, 2016

INVESTMENT ADVISERS ACT OF 1940
Release No. 4573 / November 21, 2016

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3827 / November 21, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17695

In the Matter of

GARY R. PURWIN, CPA,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 4C OF THE SECURITIES
EXCHANGE ACT OF 1934, SECTION
203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940 AND RULE
102(e) OF THE COMMISSION’S RULES
OF PRACTICE, MAKING FINDINGS,
AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-
DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted against Gary R. Purwin, CPA (“Purwin” or “Respondent”) pursuant to Section 4C¹ of the Securities Exchange Act of 1934 (“Exchange Act”), Section 203(k) of the Investment Advisers Act (“Advisers Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.²

¹ Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found ... (1) not to possess the requisite qualifications to represent others ... (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations thereunder.

² Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may ... deny, temporarily or permanently, the privilege of appearing or

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 4C of the Securities Exchange Act of 1934, Section 203(k) of the Investment Advisers Act of 1940 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds³ that:

A. SUMMARY

1. Grassi & Co. CPAs, P.C. (“Grassi”) served as independent auditor for several private funds advised by ClearPath Wealth Management, LLC (“ClearPath”) and ClearPath’s principal, Patrick Churchville (“Churchville”) between January 2012 and January 2013. Purwin was the engagement partner on Grassi’s ClearPath audits. During that time, Purwin authorized Grassi to issue nine audit reports expressing an unqualified opinion on the fair presentation of the financial statements for four different funds, for years ended 2009 through 2011. From 2010 forward, however, ClearPath and Churchville were defrauding the funds they advised, and the investors in those funds, by misappropriating fund assets and by making repeated misstatements to investors about the value and existence of fund investments. Purwin failed to fulfill his role as the engagement partner with final responsibility for the audit work on the ClearPath engagements, by failing to appropriately assess audit risks, to establish audit plans to effectively address those risks, to properly supervise the audit engagement, and to exercise professional skepticism in light of the indicia of ClearPath and Churchville’s fraud that was apparent from the accounting records.

2. During the course of audit work, Purwin experienced significant health issues that left him cognitively impaired. Purwin was on medical leave from March to April 2012, and again from July to October 2012. Another Grassi partner took over the engagement partner role during Purwin’s absence, but the replacement engagement partner left Grassi before the 2011 audits of the ClearPath funds were completed. In January 2013, after Grassi discovered that

practicing before it ... to any person who is found ... to have engaged in unethical or improper professional conduct.

³ The findings herein are made pursuant to Respondent’s Offer and are not binding on any other person or entity in this or any other proceeding.

Purwin had circumvented a firm policy with regard to non-ClearPath work, Purwin's health worsened. Despite Purwin's violation of the firm policy, Grassi instructed Purwin to participate in the final review of the 2011 audits of ClearPath funds and the related audit reports and permitted him to authorize the release of these audit reports. Purwin did not substantively review workpapers himself before authorizing the release of the 2011 audit reports and thereby failed to take the review steps required as part of his engagement partner responsibilities to certify that the audits had been performed in accordance with U.S. generally accepted auditing standards ("GAAS").⁴

3. Purwin's failure to conduct sufficient review of the audit work as part of his engagement partner responsibilities meant that he permitted release of the 2011 audit reports despite inadequate work on many key areas of the audits, in violation of GAAS. As a result, five of Grassi's nine audit reports were materially false in that they expressed an unqualified opinion on the financial statements despite the fact that these financial statements included material errors and omissions. This enabled ClearPath and Churchville to continue to report materially inflated values of the funds' investments without contradiction, to conceal use of limited partners' investments for ClearPath and Churchville's own benefit, and to continue their scheme to defraud the funds and their investors unimpeded. Purwin thereby engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice and was a cause of ClearPath's and Churchville's violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

B. RESPONDENT

4. **Gary R. Purwin**, age 55, is a Certified Public Accountant ("CPA") licensed to practice in New York since 1988 and was licensed in Connecticut from 1993 through 2003. Purwin was a partner of the public accounting firm Pustorino, Puglisi & Co, LLP ("Pustorino"), which was acquired by Grassi effective January 1, 2012. From January 1, 2012 through March 1, 2013, Purwin was a partner of Grassi. From January 2015 to the present, Purwin has been a manager at an audit firm in New York, New York. From February 2013 to the present, Purwin has also been self-employed as the sole owner and principal of FINOP, LLC, which provides accounting, financial reporting and related consulting services to broker-dealer entities. He holds the Series 27 securities license and is registered with FINRA as a Financial and Operations Principal (FinOp) and as an Operations Principal (S99).

C. OTHER RELEVANT ENTITIES AND INDIVIDUAL

⁴References to auditing standards in this Order are to generally accepted auditing standards in effect at the time the audit work was performed. Grassi was engaged to audit the ClearPath Funds in accordance with GAAS promulgated by the Auditing Standards Board ("ASB") of the American Institute of Certified Public Accountants. The references are to standards as they existed before the ASB's clarification project, which was effective for audits of financial statements for the years ending on or after December 15, 2012.

5. **Grassi** is a New York domestic professional corporation and is registered with the Public Company Accounting Oversight Board as a public accounting firm with its headquarters in Jericho, New York.

6. **ClearPath** is a Delaware limited liability company (“LLC”) and an investment adviser that was licensed by the State of Rhode Island with its principal place of business in Barrington, Rhode Island. ClearPath was registered with the Commission as an investment adviser beginning January 3, 2008 through November 16, 2012 (SEC File No. 801-68715). ClearPath is the manager of several LLCs that were the general partners of private funds. ClearPath was also the adviser to these private funds pursuant to management agreements between ClearPath and each of the funds. On May 7, 2015, the Commission filed a civil complaint alleging fraud charges against ClearPath and its owner, Patrick Evans Churchville, in the United States District Court for the District of Rhode Island: *Securities and Exchange Commission v. ClearPath Wealth Management, LLC, Patrick Evans Churchville, as Defendants, and ClearPath Multi-Strategy Fund I, L.P., ClearPath Multi-Strategy Fund II, L.P., ClearPath Multi-Strategy Fund III, L.P., and HCR Value Fund, L.P., as Relief Defendants*, Civil Action No. 15-cv-00191 (D.R.I. May 7, 2015). ClearPath is now run by a court-appointed receiver in the litigation.

7. **Churchville**, age 47, lives in Barrington, Rhode Island. He is the sole owner and President of ClearPath. On August 4, 2016, Churchville pled guilty to five counts of wire fraud and one count of tax evasion, in criminal charges alleging misconduct also alleged in the Commission’s complaint. *United States of America v. Patrick Churchville*, (CR 16 00068, D. R.I., July 5, 2016).

8. The four private funds managed by ClearPath and Churchville for which Grassi provided audit and tax services were (collectively, the “**Funds**”):

- a. **ClearPath Multi-Strategy Fund I, L.P.** (“MSF I”), formerly known as ClearPath Private Equity Fund, L.P., is a Delaware limited partnership formed in 2008.
- b. **ClearPath Multi-Strategy Fund II, L.P.** (“MSF II”) is a Delaware limited partnership formed in 2011.
- c. **ClearPath Multi-Strategy Fund III, L.P.** (“MSF III”), formerly known as the ClearPath Healthcare Receivables Investments Fund L.P., is a Delaware limited partnership formed in 2009.
- d. **ClearPath Alternative Investments Fund, L.P.** (“CPAI”) was a Delaware limited partnership formed in 2009. As of January 1, 2012, this fund was merged into MSF I.

D. THE CLEARPATH FUNDS AUDITS

Grassi’s and Purwin’s Relationship with ClearPath and the Funds

9. ClearPath retained Pustorino on behalf of three of the four Funds as their independent auditor in November 2011 (for MSF I, MSF III and CPAI). Purwin was the ClearPath engagement partner. When Pustorino merged with Grassi in January 2012, the audit work was transitioned to Grassi and Purwin continued to serve as the engagement partner on the three audits. In May 2012, ClearPath retained Grassi for the audit of the fourth fund, MSF II, and Purwin was assigned by the firm to serve as the engagement partner on that audit. Grassi was engaged to audit the Funds' financial statements under GAAS and to express an opinion about whether the financial statements were fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles ("GAAP"). Grassi was also engaged to prepare all required tax returns, including Forms K-1, for the Funds' partners for the 2011 calendar year.

10. During the course of audit work, Purwin worked on ClearPath Fund audits from January to March 2012, but experienced significant health issues that left him cognitively impaired. Purwin was on leave from March to April 2012. Purwin returned to work on the ClearPath engagement from May to June 2012, and authorized the release of the 2010 audit report for the MSF III during this time, but his illness continued. From approximately July to October 2012 he worked a sharply reduced schedule during which he did not perform any audit work while he obtained treatment for his illness.

11. In October 2012, Purwin received medical clearance to return to work, but remained unwell. In January 2013, after the replacement engagement partner left Grassi and Purwin resumed his role as engagement partner on the ClearPath Fund audits, Grassi senior executives discovered that Purwin had permitted the issuance of two non-ClearPath audit reports under the Grassi name without subjecting the audits to quality control review as required by firm policy. Purwin informed Grassi that he did not recall issuing the two reports. Purwin's illness worsened following Grassi's discovery of Purwin's circumvention of firm policy. After Grassi learned that Purwin had circumvented firm policy, Grassi permitted Purwin to solicit payment of audit and tax fees from ClearPath and authorize the issuance of the 2011 reports for MSF I and MSF III. Shortly after completing these tasks and obtaining partial payment for audit and tax fees from ClearPath, Grassi agreed to Purwin's withdrawal from the firm.

12. During the course of Grassi's audit work on the ClearPath Funds, Purwin authorized Grassi to issue nine audit reports containing unqualified opinions. The table below identifies each audit report issued including the audit report date. The five audit reports that were materially false and that had accompanying financial statements that were materially misstated are bolded and italicized, below. As the engagement partner, Purwin had final responsibility for the audits of the ClearPath Funds.

	MSF I	MSF II	MSF III	CPAI
2009	6/12/2012	Not Audited	4/19/2012	Not Audited
2010	7/2/2012	Not Audited	<i>6/11/2012</i>	4/19/2012
2011	<i>1/29/2013</i>	<i>1/22/2013</i>	<i>1/29/2013</i>	<i>1/26/2013</i>

13. ClearPath sent Grassi's audit reports to the custodian for the vast majority of the Funds' limited partner investors.

Purwin Failed to Adequately Plan the ClearPath Funds Audits

14. GAAS requires the auditor to adequately plan the work and properly supervise any assistants. (AU § 311.01). Audit planning involves developing an overall audit strategy for the expected conduct, organization and staffing of the audit. (AU § 311.02). The overall audit strategy should consider areas of higher risks of material misstatement and determine which resources should be assigned to the audit and how the resources are to be managed, directed and supervised. (AU § 311.14-15). Once the audit strategy has been established, the auditor should develop a more detailed audit plan to achieve the audit objectives. (AU § 311.17). The audit plan should include a description of the nature, timing and extent of planned risk assessment procedures sufficient to assess the risks of material misstatement and further procedures at the relevant assertion level for each material class of transactions, account balance and disclosure and any other audit procedures in order to comply with GAAS. (AU § 311.21). Planning is not a discrete phase of the audit, but rather an iterative process. If, as a result of performing planned audit procedures, the auditor obtains disconfirming evidence, the auditor may need to revise the overall audit strategy. (AU § 311.03).

15. As engagement partner, Purwin led planning and staffing of the audit work for the ClearPath Funds audits, before he went on medical leave. The Funds' predecessor auditor sent ClearPath a resignation letter in October 2011 stating that it could not complete the audits for the year ended December 31, 2009 because it had "...not received satisfactory documentation to support significant audit objectives related to certain investment and partner withdrawal transactions." The resignation letter was included in Grassi's audit workpapers. Purwin had and documented his discussion with the audit partner from the predecessor firm and noted that the firm was "concerned about certain transactions" and "uncomfortable" with the valuation of certain investments. Purwin concluded that Pustorino would be able to perform the audits as "the issues cited in the [predecessor] auditor letter could be addressed with counsel...these factors will be considered as part of the risk assessment of the audits."

16. Audit planning workpapers, prepared after the fraud brainstorming discussion led by Purwin, highlighted the risk of asset misappropriation and Ponzi schemes, and that "the entity's assets could be stolen," and based on the prior auditor's resignation, assessed audit risk related to the Investments and Equity accounts and disclosures as "significant." However, the audit plans did not include sufficient audit procedures whose nature, timing and extent were appropriately responsive to the assessed risks.

17. The audit planning workpapers also did not address the risk presented by the Funds' series structure. The ClearPath Funds were organized as series funds. Each series within each Fund generally invested in one investment (e.g., limited partnership interests, secured debt instruments, or private equity). Limited partners, through their subscription agreements, designated in which specific series they wanted to invest. The Limited Partnership Agreements for each of the Funds established the series structure and how each series was intended to stand alone:

"The Partnership's assets shall be divided into separate series...and each Series shall generally be accounted for as a 'sub-partnership' for purposes of this Agreement...the interests in any Series shall be considered a separate Series from interests in any other Series...the debts, liabilities and obligations incurred, contracted for or otherwise existing

with respect to any one Series shall be enforceable against the assets of such Series only and not against the assets of the Partnership generally or of any other Series.”

18. Despite the fact that the Funds’ governing documents specified that each series must be accounted for as a sub-partnership, Purwin failed to identify inter-series commingling as an audit risk.

19. In 2010 and 2011, ClearPath and Churchville caused a series of transactions in which they misappropriated money from the Funds, then transferred assets among several series and between the Funds. In part because the audit plan did not require it, the Grassi engagement team did not perform procedures to test for inter-series and inter-fund transactions undertaken in violation of fund governing documents. As a result, Purwin and the Grassi audit team failed to identify millions of dollars of ClearPath’s and Churchville’s misappropriations and inter-fund transfers, which were reflected on bank statements, brokerage statements and cash activity schedules reviewed by Grassi, but which were not correctly reflected in the Funds’ accounting records.

20. Grassi’s audit plan also failed to appropriately address the elevated risk of inflated valuations of hard to value securities, which was an issue highlighted by the Funds’ predecessor auditor. ClearPath used methodologies relying on Level 3 inputs to value a significant portion of the Funds’ assets for the year ended December 31, 2011.⁵ According to the 2011 audited financial statements for MSF III and MSF II, approximately 85% and 49% of the Funds’ portfolio investments relied on Level 3 inputs, respectively. The majority of these assets were secured loans to Receivable Partners LLC (“Receivable Partners”), a New Jersey LLC, purportedly for the purchase of healthcare receivable portfolios. The audit plan for the MSF II and MSF III audits for 2011 did not include procedures sufficient to test ClearPath’s assertion of fair value. Among other things, related to the auditing of the Receivable Partners loans, Purwin failed to develop audit plans that included sufficient procedures to test the existence, valuation, rights and access to or the transferability of the collateral underlying the loans despite the importance of the collateral to the fair value of the loans asserted by management. Notwithstanding these failures, Purwin approved for release audit reports expressing an unqualified opinion on the Fund’s 2011 financial statements based on audits that did not comply with the auditing standards.

21. Finally, each audit plan was not properly revised in light of the audit evidence that was either insufficient or contradicted management’s assertions in the Funds’ financial statements. For the reasons set forth above, Purwin failed to properly plan the failed ClearPath Fund audits.

Purwin Violated Audit Standards Requiring Due Professional Care and Professional Skepticism and Audit Standards for Supervision, Review and Documentation

Purwin Failed to Exercise Due Professional Care and Professional Skepticism in the Course of the ClearPath Audit Work (AU §§ 230, 316)

⁵ In the fair value hierarchy under GAAP, the best evidence of fair value are quoted prices in active markets (Level 1), followed by evidence based on inputs other than quoted prices that are observable for the asset, either directly or indirectly (Level 2). The least reliable valuations are those based on unobservable inputs reflecting the reporting entity’s own assumptions (Level 3). (Financial Accounting Standards Board Accounting Standards Codification 820-10-35).

22. GAAS requires auditors to exercise due professional care in the performance of the audit. (AU § 230.01). Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining. The auditor with final responsibility for the engagement should know, at a minimum, the relevant professional accounting and auditing standards and should be knowledgeable about the client. (AU § 230.06). Auditors must maintain an attitude of professional skepticism, which includes a questioning mind and a critical assessment of audit evidence. (AU § 230.07). Auditors should consider the competency and sufficiency of the evidence and exercise professional skepticism throughout the audit process. (AU § 230.08). An auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest (AU §§ 230.09 and 316.13), and should: (1) perform an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred; and (2) conduct the engagement with a mindset that recognizes that a material misstatement due to fraud could be present, regardless of past experience with the entity and the auditors' belief about management's honesty and integrity. (AU § 316.13).

23. At or near the completion of fieldwork, the auditor should evaluate whether the accumulated results of auditing procedures and other observations affect the assessment of the risks of material misstatement due to fraud made earlier in the audit. This evaluation primarily is a qualitative matter based on the auditor's judgment. Such an evaluation may provide further insight about the risks of material misstatement due to fraud and whether there is a need to perform additional or different audit procedures. As part of this evaluation, the auditor with final responsibility for the audit should ascertain that there has been appropriate communication with the other audit team members throughout the audit regarding information or conditions indicative of risks of material misstatement due to fraud. (AU § 316.74).

24. There were many red flags throughout the failed audits of the ClearPath Funds that should have been recognized and addressed by an engagement team exercising due professional care and appropriate professional skepticism. Several facts should have heightened Purwin's concerns about potential fraud, including: ClearPath was a new client to the audit firm; the ClearPath Funds' previous audit firm resigned due to its inability to gather sufficient appropriate audit evidence; the Funds had not been audited since 2009; there were numerous material transactions among the Funds and their series as well as with ClearPath that were outside the normal course of business for the Funds, lacked appropriate business rationale, or otherwise should have appeared to be unusual; and the largest investment in two of the Funds went into default during 2012.

25. The 2010 audited financial statements for MSF III reflected a material discrepancy of nearly \$1 million between the capital balance for the DD1 series and the associated portfolio investment. Despite the \$1 million discrepancy evident on the face of the financial statements, Purwin did not inquire about the discrepancy and authorized the release of Grassi's audit report containing an unqualified opinion on MSF III's 2010 financial statements.

26. Purwin also failed to respond appropriately to the apparent lack of audit evidence and scope limitations in the course of the MSF III and MSF II audits for 2011. In January 2013, when Purwin had returned from leave and was working as the engagement partner, Grassi requested additional evidence concerning the valuation and performance of underlying collateral

for \$20 million of the secured debt investments with Receivable Partners that defaulted during 2012. Churchville emailed Purwin and two other Grassi auditors attaching what Churchville claimed were collateral files that ClearPath was negotiating to have assigned to it in lieu of payment by Receivable Partners. The collateral files were nearly two years old and Churchville did not provide any information that linked the collateral to Receivable Partners. The Grassi engagement team, including Purwin, emailed Churchville to ask to speak to Receivable Partners to discuss the collateral files, but Churchville, citing “legal negotiations,” claimed there was no one at Receivable Partners who would be “forthcoming with any more information until we reach an agreement or they resume payments and make us whole (which they are still claiming they will do ASAP).” Purwin knew about this scope limitation, but did not properly address it by raising the level of audit risk, insisting that the audit team perform alternative procedures to verify Churchville’s claims, or qualifying or disclaiming the opinion on the financial statements (AU § 508.22).

27. As the subsequent investigation showed, there was never any collateral underlying these investments, which had a reported fair value in excess of \$20 million on the 2011 audited financial statements for MSF III and MSF II. Limited partners in the Receivable Partners series in MSF III and MSF II incurred losses in excess of \$16 million.⁶

Purwin Failed to Properly Supervise the Engagement Team (AU § 311)

28. GAAS requires that auditors be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining. The auditor with final responsibility for the audit is responsible for the assignment of tasks to assistants. (AU § 230.06). The auditor with final responsibility is required to supervise the audit assistants, including firm personnel other than the engagement partner. (AU § 311.01). Supervision involves directing the efforts of assistants who are involved in accomplishing the objectives of the audit and determining whether those objectives were accomplished. (AU § 311.28). The auditor with final responsibility for the audit should communicate with members of the audit team regarding the susceptibility of the entity's financial statements to material misstatement due to error or fraud, with special emphasis on fraud. (AU § 311.29). The auditor with final responsibility for the audit should direct assistants to bring to his or her attention accounting and auditing issues raised during the audit that the assistant believes are of significance to the financial statements or auditor's report so the auditor with final responsibility may assess their

⁶ Receivable Partners was a sham organization, founded in early 2011 through the collusive efforts of Churchville and Jonathan E. Rosenberg. The ClearPath Funds had prior investments in healthcare receivables instruments with another Rosenberg entity which began deteriorating in 2010. In order to mask the collapse of the prior investments, Churchville and Rosenberg colluded to raise capital for a purported new venture, Receivable Partners. During 2011 Churchville and ClearPath raised over \$20 million from new limited partners in MSF III and MSF II for secured loans to Receivable Partners. However, instead of purchasing healthcare receivable portfolios, with Churchville’s knowledge and direction, Receivable Partners used the cash to make the final payments on the earlier, unrelated investments. The last several rounds of capital raised for the Receivable Partners investments were used to fund “interest” payments on the earlier loans. Receivable Partners never used any of the cash raised from MSF III or MSF II investors to purchase any healthcare receivables portfolios. Rosenberg pleaded guilty to conspiracy to commit wire fraud in connection with a complex scheme to defraud investors and lenders by selling fraudulent investment portfolios of debts purportedly owed by hospital patients. *United States v. Shusterman*, *Crim. No. WDQ-13-0460 (U.S. Dist. Ct. D. Md.)*; see also <https://www.justice.gov/usao-md/pr/new-jersey-man-guilty-148-million-investment-fraud-scheme>.

significance. (AU § 311.30). The work performed by each assistant, including the audit documentation, should be reviewed to determine whether it was adequately performed and documented and to evaluate the results, relative to the conclusions to be presented in the auditor's report. (AU § 311.31).

29. Purwin failed to staff the engagement with a team that had the requisite experience and competency to complete the audit work in accordance with GAAS. Between May and August 2012, the majority of the workpapers for the 2010 and 2011 audits of the Funds were prepared by a junior auditor who had never worked on a fund audit and was not yet a CPA. Despite the fact that the junior auditor had no prior fund auditing experience, Purwin gave the auditor a great deal of responsibility while providing little supervision.

30. In particular, Purwin did not properly review workpapers himself as part of his engagement partner responsibilities before authorizing the release of the 2011 ClearPath Fund audit reports and thereby did not have a reasonable basis for his opinion that the audits had been performed in accordance with GAAS. With respect to the two ClearPath Fund audits with the most significant errors, Grassi's workpapers showed that Purwin signed off on only six of the 94 workpapers in the Grassi electronic workpaper file for the 2011 MSF I audit and only two of the 134 workpapers for the 2011 MSF III audit.

31. Purwin's failure to adequately supervise audit personnel, and his failure to review the audit work performed for sufficient appropriate audit evidence to support the conclusions reached before authorizing the release of the 2011 audit reports caused him to violate auditing standards throughout the audits.

32. **Failures in the Supervision of Subsequent Events Testing**⁷ – Purwin did not properly review the subsequent events testing of the 2011 audit of MSF I as part of his engagement partner responsibilities and therefore did not recognize several material audit deficiencies.

33. For example, despite the requirements of AU § 560 and Grassi's own written audit program, which required that the Grassi auditors consider subsequent events up until the date of the auditor's report, the subsequent events memo for the 2011 MSF I audit was dated August 24, 2012, more than five months before the audit report was issued on January 29, 2013.

34. Purwin also did not detect that Grassi auditors had deviated from their own audit program and had failed to request or review brokerage statements or capital statements for the period subsequent to the balance sheet date up until the date of the 2011 auditor's report. In the 2011 MSF I and CPAI audits, these documents would have revealed events requiring material changes to the balances reported in the 2011 financial statements and additional disclosures for the Funds' largest series investments. For example, the Oppenheimer Public Markets series in MSF I was invested in short-term U.S. government and agency bonds through an account at Oppenheimer & Co., Inc., ("OPCO"). In August 2011, Churchville and ClearPath had obtained a \$4.1 million margin loan against the value of the OPCO series and used the cash to purchase Churchville's

⁷ Subsequent events are events or transactions which occur after the balance-sheet date of the financial statements subject to audit, but prior to the issuance of the financial statements, that have a material effect on the financial statements and therefore require adjustment to or disclosure in the statements. (AU § 560.01).

personal residence overlooking Narragansett Bay in Barrington, Rhode Island, and to cover up losses from ClearPath's and Churchville's misappropriation from MSF III as outlined above. In April 2012, OPCO applied cash resulting from the redemption of the bonds against the margin loan balance, which wiped out approximately 85% of the carrying value of the OPCO series in MSF I.

35. Because Purwin did not conduct adequate review, Purwin failed to identify that auditors failed to obtain and review OPCO account statements as of the date of the audit report. The 2011 audited financial statements for MSF I made no reference to the existence of the margin loan or the material related party transaction between MSF I and ClearPath, which resulted in grossly overstating the partners' capital balance for the OPCO series. Limited partners in the ClearPath Funds lost \$4.1 million in connection with ClearPath's and Churchville's theft of OPCO assets.

36. In addition, in December 2011, ClearPath and Churchville obtained a line of credit secured in part by pledging as collateral the assets of the MSF I's and CPAI's investments in the Feingold O'Keeffe Distressed Loan Fund, L.P. ("Feingold O'Keeffe"), which was not disclosed to investors. By January 9, 2012, ClearPath had borrowed \$3.75 million against the line of credit and used the proceeds to pay for investments that were not recorded in the books and records of any ClearPath Fund. Purwin failed to identify that Grassi auditors had not obtained or reviewed capital account statements as of the date of the auditor's report for the largest investments in MSF I and CPAI, and so did not discover that the investments in the Feingold O'Keeffe series in both Funds were liquidated by the end of 2012, and the proceeds had not been credited to the limited partners in that series but instead had been used to pay down the credit line balance.

37. The 2011 audited financial statements for MSF I and CPAI were materially misstated because they did not disclose that ClearPath and Churchville established a line of credit during 2011 using the Feingold O'Keeffe series' assets as collateral and did not disclose that the line was drawn down in January 2012. Limited partners in the Feingold O'Keeffe series lost \$3.75 million of their investment due to the unauthorized borrowing on the undisclosed credit line.

38. **Failures in the Supervision of the Confirmation Process** – Each of the first three pages of the confirmation response filed in both MSF I and CPAI workpapers included references indicating that the investments were "pledged." The face of the confirmation form bears a handwritten note stating, "*note > Account is subject to a pledge agreement dated 2011.*" Purwin reviewed the confirmation response including the "pledged" designation in the CPAI workpapers. Neither Purwin, nor his audit staff, inquired of ClearPath, its fund administrator, or Feingold O'Keeffe about the meaning of the term "pledged" to understand the impact on the MSF I and CPAI financial statements. As a result, Purwin and the audit team did not discover that ClearPath and Churchville entered into a line of credit as of December 2011 pledging the Feingold O'Keeffe assets held by MSF I and CPAI as collateral along with a personal guarantee of Churchville and corporate guarantees of ClearPath and the MSF I general partner.⁸

⁸ Purwin's failure to recognize and address the "pledged" notification on the Feingold O'Keeffe audit confirmation response that he reviewed is also a failure in exercising due professional care and professional skepticism. (AU §§ 230, 316).

39. For the reasons set forth above, Purwin failed to properly supervise the engagement team in its failed ClearPath Funds audits.

Purwin Failed to Satisfy Himself as to the Proper Documentation of the Audit (AU § 339)

40. GAAS requires auditors to prepare audit documentation in connection with each engagement in sufficient detail to provide a clear understanding of the work performed (including the nature, timing, extent, and results of audit procedures performed), the audit evidence obtained and its source, and the conclusions reached. (AU § 339.03). The auditor should prepare audit documentation that enables an experienced auditor, having no previous connection to the audit, to understand, among others, the results of the audit procedures performed and the audit evidence obtained, and the conclusions reached on significant matters. (AU § 339.10). If the auditor has identified information that contradicts or is inconsistent with the auditor's final conclusions regarding a significant finding or issue, the auditor should document how the auditor addressed the contradiction or inconsistency in forming the conclusion. (AU § 339.16). In documenting the nature, timing, and extent of audit procedures performed, the auditor should record who performed the audit work and the date such work was completed, and who reviewed specific audit documentation and the date of such review. (AU § 339.18).

41. Some examples of insufficient audit documentation exhibited by Purwin and his engagement team include:

- a. Purwin signed off on the designated Supervision, Review and Approval form for the 2011 MSF I audit indicating that he performed the necessary partner review procedures, but did not in fact perform all of the procedures, in violation of AU §§ 339.03, 339.10 and 339.18.
- b. For the CPAI audit for 2011, Purwin reviewed and signed off on the workpaper containing Feingold O’Keeffe’s confirmation response including the “pledged” designation but failed to identify that the Grassi auditors did not document how they addressed the contradiction between the confirmation and the audited financial statements in its workpapers, in violation of AU § 339.16.

42. For the reasons set forth above, Purwin did not perform sufficient appropriate procedures to determine that the ClearPath Funds audits were adequately performed and documented in accordance with the requirements of GAAS.

E. VIOLATIONS

43. Section 206(2) of the Advisers Act prohibits any investment adviser from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client. A violation of Section 206(2) may rest on a finding of negligence. *SEC v. Steadman*, 967 F.2d 363, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963)). Proof of scienter is not required to establish a violation of Section 206(2). *Id.*

44. Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder make it unlawful for any investment adviser to a pooled vehicle to make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle, or to otherwise engage in any act, practice, or course of business that is fraudulent, deceptive or manipulative with respect to any investor or prospective investors in the pooled investment vehicle. A violation of Section 206(4) of the Advisers Act and the rules thereunder does not require scienter. *Steadman*, 967 F.2d at 647.

45. As a result of the conduct above, Purwin was a cause of ClearPath's and Churchville's violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

46. Section 4C(b) and Rule 102(e)(1)(iv) define improper professional conduct with respect to persons licensed to practice as accountants. "Improper professional conduct" includes two types of negligent conduct: (1) a single instance of highly unreasonable conduct that results in a violation of professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted; or (2) repeated instances of unreasonable conduct, each resulting in violations of professional standards, that indicate a lack of competence.

47. Based on the foregoing, the Commission finds that Purwin engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice. Purwin's conduct in the 2010 audit of MSF III and the 2011 audits of MSF I, MSF II, MSF III and CPAI involved repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards and indicating a lack of competence to practice before the Commission.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Section 203(k) of the Advisers Act, Section 4C of the Exchange Act and Rule 102(e) of the Commission's Rules of Practice, it is hereby ORDERED that:

A. Purwin shall cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act, and Rule 206(4)-8 thereunder.

B. Purwin is denied the privilege of appearing or practicing before the Commission as an accountant.

C. After one year from the date of this order, Respondent may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

a. Respondent, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

b. Respondent, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;

c. Respondent has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

d. Respondent acknowledges his responsibility, as long as Respondent appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

D. The Commission will consider an application by Respondent to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

E. Purwin shall, within 10 days of the entry of this Order, pay a civil money penalty of \$20,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States Postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Purwin as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Robert B. Baker, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110.

F. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the civil penalty referenced in paragraph E. above. Within five business days of collection in full of the amounts ordered, the Commission shall transfer the Fair Fund to Stephen F. Del Sesto, Esq., Donoghue Barrett & Singal, P.C., One Cedar Street, Suite 300, Providence, RI 02903, the court-appointed receiver for ClearPath in *Securities and Exchange Commission v. ClearPath Wealth Management, LLC, Patrick Evans Churchville, as Defendants, and ClearPath Multi-Strategy Fund I, L.P., ClearPath Multi-Strategy Fund II, L.P., ClearPath Multi-Strategy Fund III, L.P., and HCR Value Fund, L.P., as Relief Defendants*, Civil Action No. 15-cv-00191. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Brent J. Fields
Secretary