

STINSON LLP

Deborah Deitsch-Perez
Michael P. Aigen
2200 Ross Avenue, Suite 2900
Dallas, Texas 75201
Telephone: (214) 560-2201
Facsimile: (214) 560-2203
Email: deborah.deitschperez@stinson.com
Email: michael.aigen@stinson.com

Counsel for Hunter Mountain Investment Trust

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re	§	
	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	

**APPELLANT’S STATEMENT OF ISSUES AND
DESIGNATION OF RECORD ON APPEAL BY LEAVE**

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, Appellant Hunter Mountain Investment Trust (“HMIT”) hereby designates the following items to be included in the record and identifies the following issues with respect to its appeal by right of the “Order Extending Stay of Contested Matter [Docket No. 4000]” [Dkt. 4104] that was signed June 22, 2024, and entered by the United States Bankruptcy Court for the Northern District of Texas on June 24, 2024.¹

¹ Given the lack of clarity in the law about the appropriate mechanism for obtaining review, HMIT filed a Notice of Appeal by Right and a Notice of Appeal by Leave (along with a motion for leave to file an interlocutory appeal) and a petition for writ of mandamus (which will be filed shortly thereafter).



I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Whether the Bankruptcy Court abused its discretion in granting Appellees' motion for an indefinite stay of Appellant's gatekeeper motion seeking permission to bring suit in Delaware to remove the trustee of a Delaware statutory trust when (1) Appellees failed to meet the required standard for obtaining a stay; (2) the Bankruptcy Court erroneously concluded that the issue of Appellant's standing to seek removal of the Claimant Trustee would be decided in other cases pending before the Court; and (3) an indefinite or unduly lengthy stay of litigation of the type ordered by the Bankruptcy Court is expressly disfavored by the Fifth Circuit.

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

1. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 [Dkt. 4115].
2. The judgment, order, or decree appealed from: "Order Extending Stay of Contested Matter [Docket No. 4000]" [Dkt. 4104]
3. Any opinion, findings of fact and conclusions of law of the bankruptcy court relating to the issues on appeal, including transcripts of all oral rulings: Transcript regarding hearing held June 12, 2024 before Judge Stacey G.C. Jernigan re: Motion to Stay Contested Matter [Dkt. 4091].
4. Docket Sheet for Bankruptcy Case No. 19-34054-sgj11 kept by the Bankruptcy Clerk.
5. Documents listed below for Bankruptcy Case No. 19-34054-sgj11.

DATE	CASE NO.	DKT. NO.	DESCRIPTION
01/09/2020	19-34054-sgj-11	399	Order Approving Settlement with Official Committee of Unsecured Creditors regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course
02/22/2021	19-34054-sgj-11	1943	Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)
03/28/2023	19-34054-sgj-11	3699	Hunter Mountain Investment Trust's Emergency Motion for Leave to File Verified Adverary [sic] Proceeding
04/21/2023	19-34054-sgj-11	3756	Post Confirmation Report of Highland Capital Management, LP for Quarter Ending 3/31/23

04/21/2023	19-34054-sgj-11	3757	Post Confirmation Report of Highland Claimant Trust for Quarter Ending 3/31/23
04/23/2023	19-34054-sgj-11	3760	Hunter Mountain Investment Trust's Supplement to Emergency motion for Leave to File Verified Adversary Proceeding
06/05/2023	19-34054-sgj-11	3815	Hunter Mountain Investment Trust's Emergency Motion for Leave to File Verified Adverary [sic] Proceeding
06/05/2023	19-34054-sgj-11	3816	Hunter Mountain Investment Trust's Emergency Motion for Leave to File Verified Adverary [sic] Proceeding
07/21/2023	19-34054-sgj-11	3888	Post Confirmation Report of Highland Capital Management, LP for Quarter Ending 6/30/23
07/21/2023	19-34054-sgj-11	3889	Post Confirmation Report of Highland Claimant Trust for Quarter Ending 6/30/23
08/25/2023	19-34054-sgj-11	3903	Memorandum Opinion and Order Pursuant to Plan "Gatekeeper Provision" and Pre-Confirmation "Gatekeeper Orders": Denying Hunter Mountain Investment Trusts' Emergency Motion for Leave to File Verified Adversary Proceeding
01/01/2024	19-34054-sgj-11	4000	Motion for Leave to File a Delaware Complaint
10/23/2023	19-34054-sgj-11	3955	Post Confirmation Report of Highland Capital Management, LP for Quarter Ending 9/30/23
10/23/2023	19-34054-sgj-11	3956	Post Confirmation Report of Highland Claimant Trust for Quarter Ending 9/30/23
01/16/2024	19-34054-sgj-11	4013	Highland's Motion to Stay Contested Matter [Dk No. 4000] or for Alternative Relief
01/22/2024	19-34054-sgj-11	4019	James P. Seery, Jr.'s Joinder to Highland Capital Management L.P.'s Motion to Stay Contested Matter [Dk No. 4000] or for Alternative Relief and Emergency Motion to Expedite Hearing on Motion for Stay
06/11/2024	19-34054-sgj-11	4087	Hunter Mountain Investment Trust's Supplement to Response to Motion to Stay
01/22/2024	19-34054-sgj-11	4020	Post Confirmation Report of Highland Capital Management, LP for Quarter Ending 12/31/23
01/22/2024	19-34054-sgj-11	4021	Post Confirmation Report of Highland Claimant Trust for Quarter Ending 12/31/23

06/24/2024	19-34054-sgj-11	4104	Order Extending Stay of Contested Matter [Docket No. 4000]
01/22/2024	19-34054-sgj-11	4049	Post Confirmation Report of Highland Capital Management, LP for Quarter Ending 3/31/24
01/22/2024	19-34054-sgj-11	4050	Post Confirmation Report of Highland Claimant Trust for Quarter Ending 3/31/24
07/18/2024	19-34054-sgj-11	4130	Post Confirmation Report of Highland Capital Management, LP for Quarter Ending 6/30/24, dated July 18, 2024
07/18/2024	19-34054-sgj-11	4131	Post Confirmation Report of Highland Claimant Trust for Quarter Ending 6/30/24, dated July 18, 2024

6. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 23-03038-sgj.

DATE	CASE NO.	DKT. NO.	DESCRIPTION
05/10/2023	23-03038	0001	Complaint to (I) Compel Disclosures About the Assets of the Highland Claimant Trust and (II) Determine (A) Relative Value of Those Assets, and (B) Nature of Plaintiffs' Interests in the Claimant Trust
11/22/2023	23-03038	0013	The Highland Parties' Motion to Dismiss Complaint to (I) Compel Disclosures About the Assets of the Highland Claimant Trust and (II) Determine (A) Relative Value of Those Assets, and (B) Nature of Plaintiffs' Interests in the Claimant Trust
11/22/2023	23-03038	0014	Memorandum of Law in Support of Highland Capital Management L.P. and the Highland Claimant Trust's Motion to Dismiss Complaint

DATE	CASE NO.	DKT. NO.	DESCRIPTION
12/29/2023	23-03038	0017	The Dugaboy Investment Trust and Hunter Mountain Investment Trust's Response to the Highland Parties' Motion to Dismiss Complaint to (I) Compel Disclosures About the Assets of the Highland Claimant Trust and (II) Determine (A) Relative Value of Those Assets, and (B) Nature of Plaintiffs' Interest in the Claimant Trust
12/29/2023	23-03038	0018	Appendix in Support of the Dugaboy Investment Trust and Hunter Mountain Investment Trust's Response to the Highland Parties' Motion to Dismiss Complaint to (I) Compel Disclosures About the Assets of the Highland Claimant Trust and (II) Determine (A) Relative Value of Those Assets, and (B) Nature of Plaintiffs' Interest in the Claimant Trust
01/19/2024	23-03038	0021	The Highland Parties' Reply in Further Support of Motion to Dismiss Complaint
05/24/2024	23-03038	0026	Memorandum Opinion and Order Granting Motion to Dismiss Adversary Proceeding in Which Contingent Interest Holders in Chapter 11 Plan Trust Seek a Post-Confirmation Valuation of Trust Assets
05/24/2024	23-03038	0027	Memorandum Opinion and Order Granting Motion to Dismiss Adversary Proceeding in Which Contingent Interest Holders in Chapter 11 Plan Trust Seek a Post-Confirmation Valuation of Trust Assets
06/07/2024	23-03038	0030	Notice of Appeal [Appellant Designation due by 06/21/2024] (Filed by Plaintiffs Dugaboy Investment Trust, Hunter Mountain Investment Trust)

7. Hearing transcripts listed below for Bankruptcy Case No. 19-34054-sgj11.

DATE	CASE NO.	DKT. NO.	DESCRIPTION
-------------	-----------------	-----------------	--------------------

06/13/2024	19-34054	4091	June 12, 2024 Hearing Transcript
------------	----------	------	----------------------------------

Dated: July 22, 2024

STINSON LLP

/s/Deborah Deitsch-Perez

Deborah Deitsch-Perez

Texas Bar No. 24036072

Michael P. Aigen

Texas Bar No. 24012196

2200 Ross Avenue, Suite 2900

Dallas, Texas 75201

Telephone: (214) 560-2201

Facsimile: (214) 560-2203

Email: deborah.deitschperez@stinson.com

Email: michael.aigen@stinson.com

Counsel for Hunter Mountain Investment Trust

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 22, 2024, a true and correct copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/Deborah Deitsch-Perez

Deborah Deitsch-Perez