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*Counsel for Highland Capital Management, L.P.*

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., <sup>1</sup>	§	
Debtor.	§	Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	Adversary Proceeding No.
vs.	§	21-03000-sgj
	§	
HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P., NEXPOINT ADVISORS, L.P., HIGHLAND INCOME FUND, NEXPOINT	§	

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



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STRATEGIC OPPORTUNITIES FUND,  
NEXPOINT CAPITAL, INC., AND CLO  
HOLDCO, LTD.,

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Defendants.  
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**PLAINTIFF’S MOTION FOR EXPEDITED HEARING ON ITS  
EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION AGAINST CERTAIN ENTITIES  
OWNED AND/OR CONTROLLED BY MR. JAMES DONDERO**

Highland Capital Management, L.P., the plaintiff in the above-captioned adversary proceeding (the “Adversary Proceeding”) and the debtor and debtor-in-possession (the “Debtor” or “Highland”) in the above-captioned chapter 11 case (“Bankruptcy Case”), hereby files this motion (the “Motion to Expedite”) requesting that an expedited hearing be set on Debtor’s *Emergency Motion for a Temporary Restraining Order and Preliminary Injunction against Certain Entities Owned and/or Controlled by Mr. James Dondero* [Adv. Dkt. No. 2] (the “Motion”) for January 13, 2021 at 9:30 a.m. or as soon thereafter as counsel can be heard. In support of the Motion to Expedite, the Debtor respectfully states the following:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334(b). The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The predicates for the relief requested in the Motion are sections 105(a) and 362(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

**II. BACKGROUND**

4. On October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the District of

Delaware, Case No. 19-12239 (CSS) (the “Delaware Court”).

5. On October 29, 2019, the Official Committee of Unsecured Creditors (the “Committee”) was appointed by the U.S. Trustee in the Delaware Court. On December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor’s Bankruptcy Case to this Court [Docket No. 186].<sup>2</sup>

6. The Debtor has continued in the possession of its property and has continued to operate and manage its business as a debtor and debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this chapter 11 Bankruptcy Case.

7. On December 29, 2020, the Debtor filed the Motion seeking entry of a temporary restraining order and preliminary injunction enjoining Highland Capital Management Fund Advisors, L.P. (“HCMFA”), NexPoint Advisors, L.P. (“NPA,” and together with HCMFA, the “Advisors”), Highland Income Fund, NexPoint Strategic Opportunities Fund, NexPoint Capital, Inc. (collectively, the “Funds”), and CLO Holdco, Ltd. (“CLO Holdco” and together with the Advisors and the Funds, the “Defendants”) from: (a) interfering with or otherwise impeding, directly or indirectly, the Debtor’s business, including but not limited to the Debtor’s (i) management of the CLOs,<sup>3</sup> (ii) decisions concerning the purchase or sale of any assets on behalf of the CLOs, or (iii) contractual right to serve as the portfolio manager (or other similar title) of the CLOs; (b) otherwise violating section 362(a) of the Bankruptcy Code; (c) seeking to terminate the portfolio management agreements and/or servicing agreements between the Debtor and the CLOs (collectively, (a)-(c) constitute the “Prohibited Conduct”); (d) conspiring,

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<sup>2</sup> All docket numbers refer to the docket maintained by this Court.

<sup>3</sup> Capitalized terms not otherwise defined in this Motion have the meanings ascribed to them in the Debtor’s *Memorandum of Law in Support of Its Motion for a Temporary Restraining Order and Preliminary Injunction against Certain Entities Owned and/or Controlled by Mr. James Dondero* filed contemporaneously with the Motion.

colluding, or collaborating with (x) Mr. Dondero, (y) any entity owned and/or controlled by Mr. Dondero, and/or (z) any person or entity acting on behalf of Mr. Dondero or any entity owned and/or controlled by him, to, directly or indirectly, engage in any Prohibited Conduct; and (e) engaging in any Prohibited Conduct with respect to any of the Successor Parties.

### **III. ARGUMENT AND AUTHORITIES**

8. Pursuant to section 105(a) of the Bankruptcy Code, the Court “may issue any order ... that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” Furthermore, pursuant to Bankruptcy Rule 9006, the Court may, for cause shown, reduce the notice period required prior to a hearing.

9. A prompt hearing is necessary because absent the relief requested in the Motion, the Debtor’s ability to adequately and independently manage its operations and fulfill its contractual obligations pursuant to its CLO management agreements without interference or threats from Defendants will be compromised. Moreover, absent the relief requested in the Motion, Defendants could continue to engage in the Prohibited Conduct, which could jeopardize the Debtor’s efforts to confirm its Plan and put the Debtor’s assets and creditors’ recoveries at risk. In brief, absent injunctive relief, there is substantial risk that the Debtor’s estate will be harmed. It is therefore vital that the Court consider the Motion on an expedited basis. **Pursuant to the Certificate of Conference set forth below, counsel for the Debtor has conferred with counsel for the Defendants, and Defendants are unopposed to having the Motion heard on January 13, 2021 at 9:30 a.m.**

10. Notice of the proposed expedited hearing will be provided to counsel for Defendants by email and overnight mail. Such notice is sufficient because the relief requested in the Motion is sought against Defendants, and Defendants will have actual notice of the Debtor’s

*Original Complaint for Declaratory and Injunctive Relief* (the “Complaint”), the Motion, and the issues raised therein prior to the date of the proposed hearing.

11. The Debtor is requesting an expedited hearing on the Motion on January 13, 2021 at 9:30 a.m., or at the Court’s earliest available opportunity thereafter.

Dated: January 6, 2021.

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-and-

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*/s/ Zachery Z. Annable*

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*Counsel for Highland Capital Management, L.P.*

**CERTIFICATE OF CONFERENCE**

The undersigned hereby certifies that, on January 6, 2021, counsel for the Debtor communicated with counsel for the Defendants regarding the relief requested in the foregoing Motion to Expedite. Counsel for the Defendants advised that Defendants are unopposed to having the Motion heard on an expedited basis on January 13, 2021 at 9:30 a.m.

*/s/ Zachery Z. Annable* \_\_\_\_\_  
Zachery Z. Annable