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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Debtor.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P., NEXPOINT ADVISORS, L.P.,
HIGHLAND INCOME FUND, NEXPOINT
STRATEGIC OPPORTUNITIES FUND,
NEXPOINT CAPITAL, INC., AND CLO
HOLDCO, LTD,

Defendants.

§
§ Chapter 11
§
§ Case No. 19-34054-sgj11
§
§
§
§
§ Adversary Proceeding No.
§
§ 21-03000-sgj
§
§

**MOTION FOR AUTHORITY TO
FILE EXHIBITS UNDER SEAL**



**MOTION FOR AUTHORITY TO
FILE EXHIBITS UNDER SEAL**

TO THE HONORABLE STACEY G.C. JERNIGAN, U.S. BANKRUPTCY JUDGE:

COME NOW Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc. (collectively, the “Defendants”), and file this their *Motion for Authority to File Documents Under Seal* (the “Motion”), respectfully stating as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory and other bases for the relief requested herein are 11 U.S.C. §§ 105(a) and 107(b), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9077-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas (the “Local Rules”).

II. BACKGROUND

3. On January 22, 2020, the Court entered its *Agreed Protective Order* (Dkt. No. 382, the “Protective Order”), which “governs any documents, information, or other thing that has been or will be produced or received by a Party ... in the [Bankruptcy Case.]” Protective Order at 1.

4. On November 24, 2020, the Debtor filed its *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [bankruptcy case docket no. 1472] (the “Plan”). A hearing to confirm the Plan is set for January 26, 2021 (the “Confirmation Hearing”).

5. On January 6, 2021, the Debtor filed the above-captioned adversary proceeding against the Defendants, as well as *Plaintiff’s Emergency Motion for a Temporary Restraining Order and Preliminary Injunction Against Certain Entities Owned and/or Controlled by Mr.*

James Dondero (Dkt. No. 5, the “PI Motion”). The PI Motion is set for hearing concurrently with the Confirmation Hearing on January 26, 2021.

6. On January 22, 2021, the Defendants filed their *Witness and Exhibit List of Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.* (Adv. Dkt. No. 32). Among the exhibits listed therein are the following six exhibits marked CONFIDENTIAL under the Protective Order:

- XXX. Policy regarding Portfolio Management;
- YYY. Employee Compliance Training;
- ZZZ. Email Correspondence Dated December 22, 2020 from Jason Post to Thomas Surgent and Joe Sowin;
- AAAA. AVYA Trade Report;
- BBBB. SKY Trade Report;
- CCCC. Grayson CLO Ltd. Monthly Report as of Dec. 31, 2020.

(collectively, the “Confidential Exhibits”).

III. ARGUMENTS AND AUTHORITIES

7. The Bankruptcy Code, Bankruptcy Rules, and Local Rules authorize the Court to limit disclosure of confidential information. Section 107(b) of the Bankruptcy Code provides in relevant part as follows:

On request of a party in interest, the bankruptcy court shall ... (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information

11 U.S.C. § 107(b)(1). The Code also empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

8. Bankruptcy Rule 9018 similarly provides as follows:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information
....

Fed. R. Bankr. P. 9018. Local Rule 9077-1 also provides, “A party may file under seal any document that a statute or rule requires or permits to be so filed.” L.B.R. 9077-1(a).

9. Based on the foregoing authority, and consistent with the terms of the Protective Order, the Defendants request that the Court enter an order permitting them to file the Confidential Exhibits under seal to protect the confidentiality of the information contained therein.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Defendants respectfully request that the Court enter an order granting this Motion, authorizing them to file the Confidential Exhibits under seal, and providing the Defendants such other and further relief to which they show themselves to be entitled, at law or in equity.

RESPECTFULLY SUBMITTED this 22nd day of January, 2021.

MUNSCH HARDT KOPF & HARR, P.C.

/s/ Julian P. Vasek

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Fund Advisors, L.P., NexPoint Advisors,
L.P., Highland Income Fund, NexPoint
Strategic Opportunities Fund, and NexPoint
Capital, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on January 22, 2021, a true and correct copy of this document was served electronically by the Court's CM/ECF system on all parties entitled to such notice.

/s/ Julian P. Vasek

Julian P. Vasek, Esq.

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
Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Adversary Proceeding No.
Plaintiff,	§	21-03000-sgj
vs.	§	
HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P., NEXPOINT ADVISORS, L.P., HIGHLAND INCOME FUND, NEXPOINT STRATEGIC OPPORTUNITIES FUND, NEXPOINT CAPITAL, INC., AND CLO HOLDCO, LTD,	§	ORDER GRANTING MOTION FOR AUTHORITY TO FILE EXHIBITS UNDER SEAL
Defendants.	§	

**ORDER GRANTING MOTION FOR AUTHORITY TO
FILE EXHIBITS UNDER SEAL**

CAME ON FOR CONSIDERATION the *Motion for Authority to File Documents Under Seal* (the “Motion”), filed by Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc. (collectively, the “Defendants”). Having considered the relief requested in the Motion, and finding good cause to grant such relief, it is hereby:

ORDERED that the Motion is GRANTED, and the Defendants are authorized to file the Confidential Exhibits (as defined in the Motion) under seal.

End of Order

Submitted by:

MUNSCH HARDT KOPF & HARR, P.C.

/s/ Julian P. Vasek

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