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*Counsel for UBS Securities LLC and UBS
AG London Branch*

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

-----X	:	
<i>In re</i>	:	
	:	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	:	
	:	Case No. 19-34054-sgj11
Debtor.	:	
-----X	:	

**NOTICE OF DISTRICT COURT ORDER ACCEPTING DOCUMENTS
DESIGNATED FOR INCLUSION IN RECORD ON APPEAL UNDER SEAL**

¹ The last four digits of the Debtor’s taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

As required by Federal Rule of Bankruptcy Procedure 8009(f), UBS Securities LLC and UBS AG London Branch (collectively, UBS) hereby provide notice that, on December 21, 2020, the United States District Court for the Northern District of Texas—in the case captioned *UBS Securities LLC v. Highland Capital Management, L.P.*, No. 3:20-cv-3408-G—issued an order accepting certain sealed documents designated as part of the record on appeal (*see* Docket No. 1484) for submission under seal. A copy of the District Court docket reflecting this order is attached as Exhibit A. Attached as Exhibit B is a copy of UBS’s motion filed with the District Court, which identifies the relevant sealed documents.

DATED this 20th day of January 2021

LATHAM & WATKINS LLP

By /s/ Sarah Tomkowiak

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*Counsel for UBS Securities LLC and UBS
AG London Branch*

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that this *Notice of District Court Order Accepting Documents Designated for Inclusion in Record on Appeal under Seal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: January 20, 2021

/s/ Martin Sosland

EXHIBIT A

**U.S. District Court
Northern District of Texas (Dallas)
CIVIL DOCKET FOR CASE #: 3:20-cv-03408-G**

UBS Securities LLC et al v. Highland Capital Management LP
Assigned to: Senior Judge A. Joe Fish
Case in other court: BK Court 19-34054-sgj11
Cause: 28:0158 Notice of Appeal re Bankruptcy Matter (BA)

Date Filed: 11/13/2020
Jury Demand: None
Nature of Suit: 422 Bankruptcy: Appeal 28
USC 158
Jurisdiction: Federal Question

Debtor

Highland Capital Management LP

Appellant

UBS Securities LLC

represented by **Martin Allen Sosland**
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Appellant

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Sarah A Tomkowiak
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ATTORNEY TO BE NOTICED
Bar Status: Not Admitted

V.

Appellee

Highland Capital Management LP

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ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

Bar Status: Admitted/In Good Standing

V.

Intervenor Defendant

**Redeemer Committee of Highland
Crusader Fund**

represented by **Mark A Platt**

Frost Brown Todd LLC

2101 Cedar Springs Road, Suite 900

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ATTORNEY TO BE NOTICED

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PRO HAC VICE

Bar Status: Not Admitted

Terri L Mascherin

Jenner and Block LLP

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Chicago, IL 60654

312-222-9350

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PRO HAC VICE

Bar Status: Not Admitted

Intervenor Defendant

**Highland Crusader Offshore Partners,
L.P.**

represented by **Mark A Platt**

(See above for address)

~~LEAD ATTORNEY~~

ATTORNEY TO BE NOTICED

Bar Status: Admitted/In Good Standing

Marc B Hankin

(See above for address)

PRO HAC VICE

Bar Status: Not Admitted

Terri L Mascherin

(See above for address)

PRO HAC VICE

Bar Status: Not Admitted

Intervenor Defendant

Highland Crusader Fund, L.P.

represented by **Mark A Platt**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Bar Status: Admitted/In Good Standing

Marc B Hankin

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Terri L Mascherin

(See above for address)

PRO HAC VICE

Bar Status: Not Admitted

Intervenor Defendant

Highland Crusader Fund, Ltd.

represented by **Mark A Platt**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Bar Status: Admitted/In Good Standing

Marc B Hankin

(See above for address)

PRO HAC VICE

Bar Status: Not Admitted

Terri L Mascherin

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PRO HAC VICE

Bar Status: Not Admitted

Intervenor Defendant

Highland Crusader Fund II, Ltd.

represented by **Mark A Platt**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

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(See above for address)
PRO HAC VICE
Bar Status: Not Admitted

Terri L Mascherin
(See above for address)
PRO HAC VICE
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Bankruptcy Judge

Stacey G Jernigan

represented by **Stacey G Jernigan**
US Bankruptcy Court
Chambers of Judge Stacey G C Jernigan
1100 Commerce St
Room 1254
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214-753-2040
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PRO SE

V.

Notice Only

Case Admin Sup

represented by **Case Admin Sup**
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PRO SE

Date Entered	#	Docket Text
12/21/2020	22	ELECTRONIC ORDER: The appellants' unopposed motion to accept sealed records designated as part of the record on appeal pursuant to Federal Rule of Bankruptcy Procedure 8009(f) (docket entry 21) is GRANTED. SO ORDERED. (Ordered by Senior Judge A. Joe Fish on 12/21/2020) (chmb) (Entered: 12/21/2020)

EXHIBIT B

No. 20-cv-3408-G

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

IN RE: HIGHLAND CAPITAL MANAGEMENT, L.P.,
Debtor.

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Appellants,

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
Appellee.

On Appeal from the United States Bankruptcy Court
for the Northern District of Texas
(No. 19-bk-34054—Hon. Stacey G. Jernigan)

**APPELLANTS' UNOPPOSED MOTION TO ACCEPT SEALED RECORDS
DESIGNATED AS PART OF THE RECORD ON APPEAL**

Pursuant to Federal Rule of Bankruptcy Procedure 8009(f) and this Court's instructions (*see* ECF No. 1), Appellants UBS Securities LLC and UBS AG London Branch (collectively, UBS) move this Court to accept documents filed under seal with the Bankruptcy Court that are designated as part of the record on appeal. These documents were sealed by the Bankruptcy Court because they were designated as proprietary or confidential (or because they include information that was so

designated) pursuant to either (a) a protective order that the parties entered into during litigation in New York state court, *UBS Securities LLC v. Highland Capital Management L.P.*, No. 650097-2009 (N.Y. Sup. Ct.), or (b) the *Agreed Protective Order* entered by the Bankruptcy Court (Bankr. Dkt., ECF No. 382) (together, the “Protective Orders”). *See also* Bankr. Dkt., ECF Nos. 1091, 1188 (the parties’ motions to seal that explain the bases for the requests to seal).¹

These materials remain subject to the Protective Orders and should thus remain sealed, but they are also designated as part of the record in this bankruptcy appeal. *See* Bankr. Dkt., ECF No. 1484 (UBS’s amended statement of issue and designation of record on appeal). UBS cannot arrange for these documents to be transmitted to the Clerk of Court without an order from this Court accepting the documents under seal pursuant to Federal Rule of Bankruptcy Procedure 8009(f).

CONCLUSION

UBS respectfully requests that the Court grant this motion and issue an order accepting the documents listed below under seal. UBS will then, as directed by the Clerk of Court, submit the sealed materials to the Clerk’s Office for transmission to this Court. *See* Bankr. Dkt., ECF No. 1492.

¹ References to “Bankr. Dkt.” are to the docket in case 19-bk-34054 (Bankr. N.D. Tex.).

DOCUMENTS

<u>Date Filed</u>	<u>Relevant Docket No.</u>	<u>Description</u>
6/8/2020	719	Sealed Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (related document: 711 Order on motion to seal).
6/8/2020	720	Sealed Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (related document: 711 Order on motion to seal).
6/8/2020	721	Sealed Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (related document 711 Order on motion to seal).
8/7/2020	933	Sealed unredacted version of 933, Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch filed by Interested Party Redeemer Committee of the Highland Crusader Fund, and sealed versions of Exhibits 1, 2, 3, 6, 7, 9, 16, 20, 21, and 22.
8/26/2020	996	Sealed Exhibits B & C to 996, Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund - Proof of Claim No. 72 filed by UBS.
9/23/2020	1090	Sealed unredacted version of 1090-1, Exhibit 1 to Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith filed by Debtor/Appellee Highland Capital Management, L.P. (related document 1089: Motion to compromise controversy with (a) the Redeemer

<u>Date Filed</u>	<u>Relevant Docket No.</u>	<u>Description</u>
		Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81)).
10/5/2020	1127	Sealed Exhibit B--Cornerstone Monetization Schedule per court order filed by Debtor/Appellee Highland Capital Management, L.P. (related document: 1125 Order on motion to seal).
10/5/2020	1128	Sealed Exhibit 2--Partial Final Award dated March 6, 2019 per court order filed by Debtor/Appellee Highland Capital Management, L.P. (related document: 1125 Order on motion to seal).
10/5/2020	1129	Sealed Exhibit 3--Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor/Appellee Highland Capital Management, L.P. (related document: 1125 Order on motion to seal).
10/5/2020	1130	Sealed Exhibit 4--Final Award dated April 29, 2019 per court order filed by Debtor/Appellee Highland Capital Management, L.P. (related document 1125 Order on motion to seal).
10/16/2020	1190	Sealed unredacted version of 1190, Objection to 1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) by Debtor/Appellee Highland Capital Management, L.P., and sealed Exhibits A, B, and C to 1190, filed by UBS.
10/16/2020	1192	Sealed unredacted version of 1192, Declaration of W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), sealed Exhibits 4, 5, and 6 (1192-

<u>Date Filed</u>	<u>Relevant Docket No.</u>	<u>Description</u>
		1), and sealed Attachments A, B, and C (1192-2), filed by UBS.
10/30/2020	1315	Sealed documents submitted by UBS per 1315 Order directing UBS's Offer of Proof: (1) valuation analyses completed for the Debtor regarding Cornerstone Healthcare Group Holding, Inc. ("Cornerstone") as of (a) March 31, 2020, (b) April 30, 2020, (c) May 31, 2020, (d) June 30, 2020, (e) July 31, 2020, and (f) August 31, 2020; (2) valuation analyses completed for the Highland Crusader Funds regarding Cornerstone as of (a) March 31, 2020 and (b) June 30, 2020; and (3) a "Presentation to Redeemer Committee," dated August 6, 2020.

Dated: December 21, 2020

Respectfully submitted,

/s/ Sarah Tomkowiak

Andrew Clubok (DC Bar No. 446935)

(admitted *pro hac vice*)

Sarah Tomkowiak (DC Bar No. 987680)

(admitted *pro hac vice*)

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*Counsel for UBS Securities LLC and UBS
AG London Branch*

CERTIFICATE OF COMPLIANCE

As required by Federal Rule of Bankruptcy Procedure 8015(h)(1), I certify that this motion complies with the type-volume limitation of Rule 8013(f)(3)(A) because this motion contains 894 words, excluding the caption, signature block, and certificates. And this motion complies with the requirements of Rule 8013(f)(2) because this motion was prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman font.

/s/ Sarah Tomkowiak
Sarah Tomkowiak

CERTIFICATE OF CONFERENCE

As required by Local Rule 7.1, I certify that on December 17 and 18, 2020, counsel for UBS conferred with John Morris, counsel for Appellee-Debtor (Highland Capital Management, L.P.), about the relief requested in this motion. Mr. Morris stated that the Debtor consents to the relief requested in this motion.

/s/ Sarah Tomkowiak
Sarah Tomkowiak

CERTIFICATE OF SERVICE

I certify that this document was filed electronically through the Court's ECF system, which will notify all registered participants as identified on the Notice of Electronic Filing.

Dated: December 21, 2020

/s/ Sarah Tomkowiak
Sarah Tomkowiak

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

In Re: HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-sgj11
UBS Securities LLC, et al	§	
Appellant	§	
vs.	§	
Highland Capital Management, L.P.	§	3:20-CV-03408-G
Appellee	§	

[1273] Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # [1089](#)) Entered on 10/23/2020.

**MINI RECORD
VOLUME 1**

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re:
Highland Capital Management, L.P.

Debtor(s)

UBS Securities LLC, et al

Appellant(s)

vs.
Highland Capital Management, L.P.

Appellee(s)

§
§
§
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Case No.: 19-34054-sgj11

Chapter No.: 11

INDEX OF RECORD FOR THE PURPOSE OF APPEAL

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Item Description

Appellant Index

Appellee Index

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Notice of appeal

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Amended Notice of appeal

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Appealed order

000021

Docket sheet

DATED: 3/10/21

FOR THE COURT:
Robert P. Colwell, Clerk of Court

by: /s/J. Blanco, Deputy Clerk

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

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

-----X
In re: : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

INDEX

**APPELLANTS' AMENDED STATEMENT OF ISSUE AND
DESIGNATION OF RECORD ON APPEAL**

¹ The last four digits of the Debtor's taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Bankruptcy Court, Suite 700, Dallas, TX 75201.

Pursuant to instructions by the Clerk of Court (*see* Docket No. 1458), Appellants UBS Securities LLC and UBS AG, London Branch (together “UBS” or “Appellants”) submit this amended statement of issue and designation of record on appeal in connection with their appeal of the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* (Bankruptcy Case No. 19-34054-sgj11) [Docket No. 1273], dated October 22, 2020 and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020.

I. STATEMENT OF ISSUE TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court err as a matter of law by approving the Debtor’s claim compromise as fair, equitable, and in the best interest of the estate under Federal Rule of Bankruptcy Procedure 9019?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

- Vol. 1*
- 000001*
- 000010*
1. The Notice of Appeal:
- a. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1339);
- b. Amended Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1369).
2. The Judgment, Order, or Decree Appealed from:
- a. Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith (Dkt. 1273).
- 000019*
3. Any Opinion, Findings of Fact, and Conclusions of Law of the Bankruptcy Court:
- To the extent included in or underlying the documents identified in part II.5 herein.
- 000021*
4. The Docket Sheet for Bankruptcy Case No. 19-34054-sgj11.

5. Documents listed below (as described in the Docket Sheet for Bankruptcy Case No.

19-34054-sgj11):

<i>Vol. 2</i>	Date Filed	Docket No.	Description/Docket Text
<i>000301</i>	12/4/2019	1	(2 pgs) Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
<i>000303</i>	12/27/2019	281	(100 pgs; 4 docs) Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) (Hayward, Melissa)
<i>000403</i>	1/9/2020	339	(5 pgs) Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document # 281) Entered on 1/9/2020. (Okafor, M.)
<i>000408</i>	3/2/2020	488	(18 pgs) Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # 421) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
<i>000426</i>	9/21/2020	1079	(61 pgs) Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)944 Chapter 11 plan). (Annable, Zachery)
<i>Vol. 3</i>	9/21/2020	1080	(155 pgs; 3 docs) Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)(Annable, Zachery)
<i>000487</i>	9/23/2020	1089	(26 pgs; 2 docs) Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A--Proposed Order) (Annable, Zachery)
<i>000642</i>	10/15/2020	1173	(11 pgs; 2 docs) Notice (Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1080 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)). (Attachments: # 1 Exhibit C/D to
<i>000668</i>			

Date Filed	Docket No.	Description/Docket Text
		Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/16/2020	1191	(8 pgs) Response opposed to (related document(s): 1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/19/2020	1220	(11 pgs) Reply to (related document(s): 1190 Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/28/2020	1303	(2 pgs) Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 & #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)
10/30/2020	1315	(3 pgs) Order directing UBS' Offer of Proof (RE: related document(s)1089 Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.) ²
6/8/2020	719	SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
6/8/2020	720	SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)

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² This designation includes the underlying documents that UBS submitted to the Bankruptcy Court in hard copy pursuant to this ruling.

	<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
Vol. 4 000823	6/8/2020	721	SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
000824 Thru Vol. 5	8/7/2020	933	(431 pgs; 23 docs) Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page - to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page - to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page - to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page - to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page - to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page - to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page - to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page - to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page - to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page - to be filed under seal upon order from Court)) (Platt, Mark)
Vol. 6 001255	8/26/2020	996	(34 pgs) Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund - Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) (sealed exhibits)
001289	9/23/2020	1090	(94 pgs; 7 docs) Declaration re: (Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) (Annable, Zachery)
001383	10/5/2020	1127	SEALED document regarding: Exhibit B--Cornerstone Monetization Schedule per court order filed by Debtor

Date Filed	Docket No.	Description/Docket Text
		Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1128	SEALED document regarding: Exhibit 2 - Partial Final Award dated March 6, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.).
10/5/2020	1129	SEALED document regarding: Exhibit 3--Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1130	SEALED document regarding: Exhibit 4--Final Award dated April 29, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/16/2020	1190	(42 pgs; 2 docs) Objection to (related document(s): 1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # 1 A-C) (Sosland, Martin)
10/16/2020	1192	(36 pgs; 3 docs) Declaration re: W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)1190 Objection). (Attachments: # 1 Exhibit 1-6 # 2 Attachments A-C) (Sosland, Martin)
7/10/2020	817	Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 812 Hearing held on 7/8/2020. (RE: related document(s)737 Motion to extend or limit the exclusivity period (RE: related document(s)668 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M.

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Date Filed	Docket No.	Description/Docket Text
		Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.), 813 Hearing held on 7/8/2020. (RE: related document(s)747 Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)459 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
8/26/2020	998	Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s)771 Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)

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<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
10/23/2020	1271	Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1256 Hearing held on 10/20/2020. (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), 1257 Hearing held on 10/20/2020. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)

Respectfully submitted,

DATED this 25th day of November 2020.

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Appellants' Amended Statement of Issue and Designation of Record on Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 25, 2020.

/s/ Martin Sosland

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Counsel for Appellee 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., ¹	§ Case No. 19-34054-sgj11
Debtor.	§
In re:	§
JAMES DONDERO,	§
Appellant,	§
v.	§
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§
Appellees.	§

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APPELLEE'S COUNTER-DESIGNATION OF RECORD ON APPEAL

¹ 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.

Appellee Highland Capital Management, L.P. (“Appellee”), pursuant to Rule 8009(a)(2) of the Federal Rules of Bankruptcy Procedure, hereby submits its counter-designation of the record in the appeal filed by James Dondero (“Appellant”) from the *Order Approving Debtor’s Settlement with (a) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (b) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (c) Acis Capital Management, L.P. (Claim No. 159) and Authorizing Actions Consistent Therewith* [Docket No. 1302] entered by the United States Bankruptcy Court for the Northern District of Texas on October 28, 2020 in above-captioned chapter 11 bankruptcy case (the “Bankruptcy Case”). Appellee respectfully reserves the right to supplement and/or amend the record on appeal designated herein.

I. Items Counter-Designated from the Docket in the Bankruptcy Case

Appellee counter-designates the following additional items from the docket in the Bankruptcy Case, in addition to the items previously designated by the Appellant:

	<u>Date</u>	<u>Docket No.</u>	<u>Description</u>
Vol. 8 001799	10/16/2020	1202-2	Proof of Claim No. 156 of Joshua N. Terry and Jennifer G. Terry
001819	10/16/2020	1202-3	Proof of Claim No. 159 of Acis Capital Management, L.P.
001801	10/16/2020	1202-4	Declaration of Gregory V. Demo in Support of the Debtors' Motion for Entry of an Order Approving Settlement with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith

Appellee reserves the right to designate additional items depending on the arguments made by Appellant on appeal.

Dated: December 7, 2020.

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

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

-----X	:	
<i>In re</i>	:	
	:	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	:	
	:	Case No. 19-34054-sgj11
Debtor.	:	
-----X	:	

Notice of Appeal

To the Honorable Court:

¹ The Debtor's last four digits of its taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

NOTICE IS HEREBY GIVEN that, pursuant to rules 8002 and 8003 of the Federal Rules of Bankruptcy Procedure Movants, UBS Securities LLC and UBS AG, London Branch hereby appeal to the United States District Court for the Northern District of Texas from the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith*, dated October 22, 2020 [Docket No. 1273] (the “Order”), and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020. A copy of the Order is attached hereto.

The parties to this matter and the names and addresses of their respective attorneys are as follows:

Party	Counsel of Record
Creditors UBS Securities LLC and UBS AG, London Branch -- Movants	Andrew Clubok (<i>pro hac vice</i>) Sarah Tomkowiak (<i>pro hac vice</i>) LATHAM & WATKINS LLP 555 Eleventh Street, NW, Suite 1000 Washington, District of Columbia Telephone: (202) 637-2200 Email: andrew.clubok@lw.com sarah.tomkowiak@lw.com and Jeffrey E. Bjork (<i>pro hac vice</i>) Kimberly A. Posin (<i>pro hac vice</i>) LATHAM & WATKINS LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071 Telephone: (213) 485-1234 Email: jeff.bjork@lw.com kim.posin@lw.com and Martin Sosland (TX Bar No. 18855645)

	<p>Candice M. Carson (TX Bar No. 24074006) BUTLER SNOW LLP 2911 Turtle Creek Boulevard, Suite 1400 Dallas, Texas 75219 Telephone: (469) 680-5502 Email: martin.sosland@butlersnow.com candice.carson@butlersnow.com</p>
<p>Debtor Highland Capital Management, L.P. – Respondent</p>	<p>Jeffrey N. Pomerantz (CA Bar No.143717) <i>(pro hac vice)</i> Ira D. Kharasch (CA Bar No. 109084) <i>(pro hac vice)</i> John A. Morris (NY Bar No. 266326) <i>(pro hac vice)</i> Gregory V. Demo (NY Bar No. 5371992) <i>(pro hac vice)</i> PACHULSKI STANG ZIEHL & JONES LLP 10100 Santa Monica Blvd., 13th Floor Los Angeles, CA 90067 Telephone: (310) 277-6910 Email: jpomerantz@pszjlaw.com ikharasch@pszjlaw.com gdemo@pszjlaw.com</p> <p>and</p> <p>Melissa S. Hayward (TX Bar No. 24044908) Zachery Z. Annable (TX Bar No. 24053075) HAYWARD & ASSOCIATES PLLC 10501 N. Central Expy, Ste. 106 Dallas, Texas 75231 Telephone: (972) 755-7100 Email: MHayward@HaywardFirm.com ZAnnable@HaywardFirm.com</p>
<p>Creditors Redeemer Committee of the Highland Crusader Fund and Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd. and Highland Crusader Fund II, Ltd. – Parties-In-Interest</p>	<p>Mark A. Platt, Esq. (TX Bar No. 00791453) FROST BROWN TODD LLC 2101 Cedar Springs Road, Suite 900 Dallas, Texas 75201 Telephone: 214-545-3474 Email: mplatt@fbtlaw.com</p> <p>and</p>

	<p>Terri L. Mascherin JENNER AND BLOCK, LLP 353 North Clark Street Chicago, IL 60654-3456 Telephone: (312) 222-9350 Email: TMascherin@jenner.com</p> <p>and</p> <p>Marc B. Hankin JENNER AND BLOCK, LLP 919 3rd Avenue, New York, NY 10022 (212) 891-1647 Email: MHankin@jenner.com</p>
--	---

[Remainder of page intentionally left blank]

DATED this 6th day of November, 2020.

BUTLER SNOW LLP

By /s/ Martin Sosland

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that this *Notice of Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 6, 2020.

/s/ *Martin Sosland*

Martin A. Sosland

Exhibit A

Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed October 22, 2020

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	Related to Docket No. 1089
	§	

ORDER APPROVING DEBTOR'S SETTLEMENT WITH (A) THE REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND CRUSADER FUNDS (CLAIM NO. 81), AND AUTHORIZING ACTIONS CONSISTENT THEREWITH

Upon the *Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* [Docket No. 1089] (the "Motion")² filed by the above-captioned debtor and debtor-in-possession (the "Debtor"); and this

¹ 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.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties-in-interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion, any and all other documents filed in support of the Motion, and the UBS Objection; and this Court having held an evidentiary hearing October 20, 2020, where it assessed the credibility of the witnesses, considered the evidence admitted into the record, and determined that the legal and factual bases set forth in the Motion and at the hearing on the Motion establish good cause for the relief granted herein; and upon overruling any objections to the Motion; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. The Settlement, attached as **Exhibit 1** to the Morris Declaration, is approved in all respects pursuant to Bankruptcy Rule 9019.
3. The UBS Objection is overruled in its entirety.
4. The Debtor and its agents are authorized to take any and all actions necessary or desirable to implement the Settlement without need of further Court approval or notice.
5. The Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order

END OF ORDER

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

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

-----X	:	
<i>In re</i>	:	
	:	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	:	
	:	Case No. 19-34054-sgj11
Debtor.	:	
-----X	:	

Amended Notice of Appeal

To the Honorable Court:

¹ The Debtor's last four digits of its taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

NOTICE IS HEREBY GIVEN that, pursuant to rules 8002 and 8003 of the Federal Rules of Bankruptcy Procedure Appellants, UBS Securities LLC and UBS AG, London Branch hereby appeal to the United States District Court for the Northern District of Texas from the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith*, dated October 22, 2020 [Docket No. 1273] (the “Order”), and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020. A copy of the Order is attached hereto.

The parties to this matter and the names and addresses of their respective attorneys are as follows:

Party	Counsel of Record
Creditors UBS Securities LLC and UBS AG, London Branch -- Appellants	Andrew Clubok (<i>pro hac vice</i>) Sarah Tomkowiak (<i>pro hac vice</i>) LATHAM & WATKINS LLP 555 Eleventh Street, NW, Suite 1000 Washington, District of Columbia Telephone: (202) 637-2200 Email: andrew.clubok@lw.com sarah.tomkowiak@lw.com and Jeffrey E. Bjork (<i>pro hac vice</i>) Kimberly A. Posin (<i>pro hac vice</i>) LATHAM & WATKINS LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071 Telephone: (213) 485-1234 Email: jeff.bjork@lw.com kim.posin@lw.com and Martin Sosland (TX Bar No. 18855645)

	<p>Candice M. Carson (TX Bar No. 24074006) BUTLER SNOW LLP 2911 Turtle Creek Boulevard, Suite 1400 Dallas, Texas 75219 Telephone: (469) 680-5502 Email: martin.sosland@butlersnow.com candice.carson@butlersnow.com</p>
<p>Debtor Highland Capital Management, L.P. – Appellee</p>	<p>Jeffrey N. Pomerantz (CA Bar No.143717) <i>(pro hac vice)</i> Ira D. Kharasch (CA Bar No. 109084) <i>(pro hac vice)</i> John A. Morris (NY Bar No. 266326) <i>(pro hac vice)</i> Gregory V. Demo (NY Bar No. 5371992) <i>(pro hac vice)</i> PACHULSKI STANG ZIEHL & JONES LLP 10100 Santa Monica Blvd., 13th Floor Los Angeles, CA 90067 Telephone: (310) 277-6910 Email: jpomerantz@pszjlaw.com ikharasch@pszjlaw.com gdemo@pszjlaw.com</p> <p>and</p> <p>Melissa S. Hayward (TX Bar No. 24044908) Zachery Z. Annable (TX Bar No. 24053075) HAYWARD & ASSOCIATES PLLC 10501 N. Central Expy, Ste. 106 Dallas, Texas 75231 Telephone: (972) 755-7100 Email: MHayward@HaywardFirm.com ZAnnable@HaywardFirm.com</p>
<p>Creditors Redeemer Committee of the Highland Crusader Fund and Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd. and Highland Crusader Fund II, Ltd. – Parties-In-Interest</p>	<p>Mark A. Platt, Esq. (TX Bar No. 00791453) FROST BROWN TODD LLC 2101 Cedar Springs Road, Suite 900 Dallas, Texas 75201 Telephone: 214-545-3474 Email: mplatt@fbtlaw.com</p> <p>and</p>

	<p>Terri L. Mascherin JENNER AND BLOCK, LLP 353 North Clark Street Chicago, IL 60654-3456 Telephone: (312) 222-9350 Email: TMascherin@jenner.com</p> <p>and</p> <p>Marc B. Hankin JENNER AND BLOCK, LLP 919 3rd Avenue, New York, NY 10022 (212) 891-1647 Email: MHankin@jenner.com</p>
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DATED this 12th day of November, 2020.

BUTLER SNOW LLP

By /s/ Martin Sosland

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*Counsel for UBS Securities LLC and UBS
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CERTIFICATE OF SERVICE

I, Martin Sosland, certify that this *Amended Notice of Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 12, 2020.

/s/ Martin Sosland

Martin A. Sosland

Exhibit A

Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed October 22, 2020

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	Related to Docket No. 1089
	§	

ORDER APPROVING DEBTOR’S SETTLEMENT WITH (A) THE REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND CRUSADER FUNDS (CLAIM NO. 81), AND AUTHORIZING ACTIONS CONSISTENT THEREWITH

Upon the *Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* [Docket No. 1089] (the “Motion”)² filed by the above-captioned debtor and debtor-in-possession (the “Debtor”); and this

¹ 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.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties-in-interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion, any and all other documents filed in support of the Motion, and the UBS Objection; and this Court having held an evidentiary hearing October 20, 2020, where it assessed the credibility of the witnesses, considered the evidence admitted into the record, and determined that the legal and factual bases set forth in the Motion and at the hearing on the Motion establish good cause for the relief granted herein; and upon overruling any objections to the Motion; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. The Settlement, attached as **Exhibit 1** to the Morris Declaration, is approved in all respects pursuant to Bankruptcy Rule 9019.
3. The UBS Objection is overruled in its entirety.
4. The Debtor and its agents are authorized to take any and all actions necessary or desirable to implement the Settlement without need of further Court approval or notice.
5. The Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order

END OF ORDER



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed October 22, 2020

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	Related to Docket No. 1089
	§	

ORDER APPROVING DEBTOR’S SETTLEMENT WITH (A) THE REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND CRUSADER FUNDS (CLAIM NO. 81), AND AUTHORIZING ACTIONS CONSISTENT THEREWITH

Upon the *Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* [Docket No. 1089] (the “Motion”)² filed by the above-captioned debtor and debtor-in-possession (the “Debtor”); and this

¹ 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.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties-in-interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion, any and all other documents filed in support of the Motion, and the UBS Objection; and this Court having held an evidentiary hearing October 20, 2020, where it assessed the credibility of the witnesses, considered the evidence admitted into the record, and determined that the legal and factual bases set forth in the Motion and at the hearing on the Motion establish good cause for the relief granted herein; and upon overruling any objections to the Motion; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED** as set forth herein.
2. The Settlement, attached as **Exhibit 1** to the Morris Declaration, is approved in all respects pursuant to Bankruptcy Rule 9019.
3. The UBS Objection is overruled in its entirety.
4. The Debtor and its agents are authorized to take any and all actions necessary or desirable to implement the Settlement without need of further Court approval or notice.
5. The Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order

END OF ORDER

SEALEDEXH, APPEAL, SealedDocument, FUNDS, TRANSIN, REFORM, ClaimsAgent,
EXHIBITS, COMPLEX

**U.S. Bankruptcy Court
Northern District of Texas (Dallas)
Bankruptcy Petition #: 19-34054-sgj11**

Assigned to: Stacey G. Jernigan
Chapter 11
Voluntary
Asset
Show Previous Cases

Date filed: 10/16/2019
Date Plan Confirmed: 02/22/2021
Date transferred: 12/04/2019
Plan confirmed: 02/22/2021
341 meeting: 01/09/2020
Deadline for filing claims: 04/08/2020
Deadline for filing claims (govt.): 04/13/2020

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DALLAS-TX

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TERMINATED: 12/09/2019

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Official Committee of Unsecured Creditors

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Filing Date	Docket Text
12/04/2019	<u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
12/04/2019	<u>2</u> DOCKET SHEET filed in 19-12239 in the U.S. Bankruptcy Court for Delaware . (Okafor, M.)
12/04/2019	<u>3</u> Chapter 11 Voluntary Petition . Fee Amount \$1717. Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Creditor Matrix) [ORIGINALLY FILED AS DOCUMENT #1 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>4</u> Motion to Pay Employee Wages /Motion of the Debtors for Entry of Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A - Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #2 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>5</u> Motion to Pay Critical Trade Vendor Claims /Motion of the Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and

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	(B) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Proposed Order)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #3 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE]
12/04/2019	<u>6</u> Motion to Extend Deadline to File Schedules or Provide Required Information Filed by Highland Capital Management, L.P.(Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #4 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>8</u> **WITHDRAWN** – 10/29/2019. SEE DOCKET # 72. Motion to Approve Use of Cash Collateral /Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing Filed By Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Order)(O'Neill, James) Modified on 10/30/2019 (DMC)[ORIGINALLY FILED AS DOCUMENT #6 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE]
12/04/2019	<u>9</u> Application to Appoint Claims/Noticing Agent KURTZMAN CARSON CONSULTANTS, LLC Filed By Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Engagement Agreement # <u>2</u> Exhibit B – Gershbein Declaration # <u>3</u> Exhibit C – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #7 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>10</u> Motion to File Under Seal/Motion of the Debtor for Entry of Interim and Final Orders Authorizing the Debtor to File Under Seal Portions of Its Creditor Matrix Containing Employee Address Information Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #8 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>11</u> Affidavit/Declaration in Support of First Day Motion /Declaration of Frank Waterhouse in Support of First Day Motions Filed By Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #9 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>12</u> Notice of Hearing on First Day Motions (related document(s)2, 3, 5, 6, 7, 8, 9 [ON DELAWARE DOCKET]) Filed by Highland Capital Management, L.P.. Hearing scheduled for 10/18/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #11 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>13</u> Notice of Hearing // Notice of Interim Hearing on Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing (related document(s)6) Filed by Highland Capital Management, L.P.. Hearing scheduled for 10/18/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware.

	(Attachments: # <u>1</u> Exhibit A) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #12 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>14</u> Notice of Agenda of Matters Scheduled for Hearing Filed by Highland Capital Management, L.P.. Hearing scheduled for 10/18/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #13 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>15</u> Notice of appearance Filed by Alvarez & Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #14 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>16</u> Motion to Appear pro hac vice of Marshall R. King of Gibson, Dunn & Crutcher LLP. Receipt Number 2757354, Filed by Alvarez & Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #15 ON 10/1/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>17</u> Motion to Appear pro hac vice of Michael A. Rosenthal of Gibson, Dunn & Crutcher LLP. Receipt Number 2624495, Filed by Alvarez & Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #16 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>18</u> Motion to Appear pro hac vice of Alan Moskowitz of Gibson, Dunn & Crutcher LLP. Receipt Number 2624495, Filed by Alvarez & Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Beach, Sean)) [ORIGINALLY FILED AS DOCUMENT #17 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>19</u> Motion to Appear pro hac vice of Matthew G. Bouslog of Gibson, Dunn & Crutcher LLP. Receipt Number 2581894, Filed by Alvarez & Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Beach, Sean)) [ORIGINALLY FILED AS DOCUMENT #18 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>20</u> Notice of Appearance and Request for Notice by Louis J. Cisz filed by Interested Party California Public Employees Retirement System (CalPERS) . (Okafor, M.) [ORIGINALLY FILED AS DOCUMENT #19 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE]
12/04/2019	<u>21</u> Motion to Appear pro hac vice (Jeffrey N. Pomerantz). Receipt Number 2564620, Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #20 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>22</u> Motion to Appear pro hac vice (Maxim B. Litvak). Receipt Number 2564620, Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #21 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>23</u> Motion to Appear pro hac vice (Ira D. Kharasch). Receipt Number DEX032537, Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #22 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)

12/04/2019	<u>24</u> Motion to Appear pro hac vice (Gregory V. Demo). Receipt Number DEX032536, Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #23 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>25</u> Motion to Appear pro hac vice of Marc B. Hankin. Receipt Number 2757358, Filed by Redeemer Committee of the Highland Crusader Fund. (Miller, Curtis) [ORIGINALLY FILED AS DOCUMENT #24 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>26</u> Order Approving Motion for Admission pro hac vice Marshall R. King of Gibson(Related Doc # 15) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #25 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>27</u> Order Approving Motion for Admission pro hac vice Michael A. Rosenthal (Related Doc # 16) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #26 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>28</u> Order Approving Motion for Admission pro hac vice Alan Moskowitz (Related Doc # 17) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #27 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>29</u> Order Approving Motion for Admission pro hac vice Matthew G. Bouslog(Related Doc # 18) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #28 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>30</u> Order Approving Motion for Admission pro hac vice Jeffrey N. Pomerantz (Related Doc # 20) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #29 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>31</u> Order Approving Motion for Admission pro hac vice Maxim B. Litvak (Related Doc # 21) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #30 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>32</u> Order Approving Motion for Admission pro hac vice Ira D. Kharasch (Related Doc # 22) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #31 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>33</u> Order Approving Motion for Admission pro hac vice Gregory V. Demo(Related Doc # 23) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #32 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>34</u> Order Approving Motion for Admission pro hac vice Marc B. Hankin(Related Doc # 24) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #33 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>35</u> Certificate of Service of: 1) Notice of Hearing on First Day Motions; 2) Notice of Interim Hearing on Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C)

	Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing; and 3) Notice of Agenda for Hearing of First Day Motions Scheduled for October 18, 2019 at 10:00 a.m. (related document(s)11, 12, 13) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #34 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>36</u> Motion to Appear pro hac vice (John A. Morris). Receipt Number 2635868, Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #35 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>37</u> Notice of Appearance and Request for Notice by Richard B. Levin , Marc B. Hankin , Kevin M. Coen , Curtis S. Miller filed by Interested Party Redeemer Committee of the Highland Crusader Fund . (Miller, Curtis) [ORIGINALLY FILED AS DOCUMENT #36 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>38</u> Order Approving Motion for Admission pro hac vice John A. Morris(Related Doc # 35) Order Signed on 10/18/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #38 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>39</u> Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief. (related document(s)2) Order Signed on 10/18/2019. (NAB) [ORIGINALLY FILED AS DOCUMENT #39 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>40</u> Interim Order (A) Authorizing the Debtor to Pay Certain Prepetition Claims of Critical Vendors and (B) Granting Related Relief (Related Doc 3) Order Signed on 10/18/2019 (Attachments: # <u>1</u> Agreement)) (NAB) Modified Text on 10/21/2019 (LB) [ORIGINALLY FILED AS DOCUMENT #40 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>41</u> Notice of Appearance and Request for Notice by Eric Thomas Haitz filed by Debtor Highland Capital Management, L.P.. (Haitz, Eric)
12/04/2019	<u>42</u> Interim Order Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief. (Related Doc 5) Order Signed on 10/18/2019. (JS) Modified Text on 10/21/2019 (LB). [ORIGINALLY FILED AS DOCUMENT #42 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>43</u> Order Appointing Kurtzman Carson Consultants, LLC as Claims and Noticing Agent for the Debtors Pursuant to 28 U.S.C. §156(C), 11 U.S.C. §105(A), and Local Rule 2002-1(F) (Related Doc # 7) Order Signed on 10/18/2019. (JS) [ORIGINALLY FILED AS DOCUMENT #43 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>44</u> Interim Order Authorizing the Debtor to File Under Seal Portions of Its Creditor Matrix Containing Employee Address Information. (Related Doc # 8) Order Signed on 10/18/2019. (JS) [ORIGINALLY FILED AS DOCUMENT #44 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>45</u> Notice of Appearance and Request for Notice by Elizabeth Weller filed by Irving ISD , Grayson County , Upshur County , Dallas County , Tarrant County , Kaufman County ,

	Rockwall CAD , Allen ISD , Fannin CAD , Coleman County TAD . (Okafor, M.)
12/04/2019	<u>46</u> Notice of hearing/ <i>scheduling conference</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)). Status Conference to be held on 12/6/2019 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Haitz, Eric)
12/04/2019	<u>47</u> Notice of Service // Notice of Entry of Order on Motion of Debtor for Entry of Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief (related document(s) <u>2</u> , <u>39</u>) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #47 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>48</u> Notice of Service // Notice of Entry of Order on Application for an Order Appointing Kurtzman Carson Consultants LLC as Claims and Noticing Agent for the Debtor Pursuant to 28 U.S.C. §156(C), 11 U.S.C. §105(A), and Local Rule 2002-1(F) (related document(s) <u>7</u> , <u>43</u>) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #48 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Additional attachment(s) added on 12/9/2019 (Okafor, M.)
12/04/2019	<u>49</u> Notice of Hearing // Notice of Motion of Debtor for Entry of an Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief (related document(s) <u>4</u>) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019.(Attachments: # <u>1</u> Exhibit 1) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #49 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>50</u> Notice of Hearing // Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief (related document(s) <u>3</u> , <u>40</u>) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #50 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>51</u> Notice of Hearing // Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief (related document(s) <u>5</u> , <u>42</u>) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #51 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>52</u> Notice of Hearing // Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders Authorizing Debtor to File Under Seal Portions of Its Creditor Matrix Containing Employee Address Information (related document(s) <u>8</u> , <u>44</u>) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6,

	Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #52 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>53</u> Notice of Hearing // Notice of Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing (related document(s)6) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/7/2019 at 03:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 10/31/2019. (Attachments: # <u>1</u> Exhibit 1) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #53 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>54</u> Affidavit/Declaration of Service for service of (1) [Signed] Order Approving Motion for Admission pro hac vice Jeffrey N. Pomerantz [Docket No. 29]; (2) [Signed] Order Approving Motion for Admission pro hac vice Maxim B. Litvak [Docket No. 30]; (3) [Signed] Order Approving Motion for Admission pro hac vice Ira D. Kharasch [Docket No. 31]; (4) [Signed] Order Approving Motion for Admission pro hac vice Gregory V. Demo [Docket No. 32]; (5) [Signed] Order Approving Motion for Admission pro hac vice John A. Morris [Docket No. 38]; (6) Notice of Entry of Order on Motion of Debtor for Entry of Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief [Docket No. 47]; (7) Notice of Entry of Order on Application for an Order Appointing Kurtzman Carson Consultants LLC as Claims and Noticing Agent for the Debtor Pursuant to 28 U.S.C. §156(C), 11 U.S.C. §105(A), and Local Rule 2002-1(F) [Docket No. 48]; (8) Notice of Motion of Debtor for Entry of an Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief [Docket No. 49]; (9) Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief [Docket No. 50]; (10) Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief [Docket No. 51]; (11) Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders Authorizing Debtor to File Under Seal Portions of Its Creditor Matrix Containing Employee Address Information [Docket No. 52]; and (12) Notice of Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing [Docket No. 53] (related document(s)29, 30, 31, 32, 38, 47, 48, 49, 50, 51, 52, 53) Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #55 ON 10/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M)
12/04/2019	<u>55</u> Notice of Appearance and Request for Notice by Josef W. Mintz , John E. Lucian , Phillip L. Lamberson , Rakhee V. Patel filed by Acis Capital Management, L.P. , Acis Capital Management GP, LLC . (Attachments: # <u>1</u> Certificate of Service) (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #56 ON 10/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>56</u> Motion to Appear pro hac vice of Rakhee V. Patel of Winstead PC. Receipt Number 3112761165, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #57 ON 10/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	

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	<u>57</u> Motion to Appear pro hac vice of Phillip Lamberson of Winstead PC. Receipt Number 3112761165, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #58 ON 10/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>58</u> Motion to Appear pro hac vice of John E. Lucian of Blank Rome LLP. Receipt Number 3112548736, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #59 ON 10/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>59</u> Notice of Appearance and Request for Notice by Michael I. Baird filed by Interested Party Pension Benefit Guaranty Corporation . (Attachments: # <u>1</u> Certification of United States Government Attorney # <u>2</u> Certificate of Service) (Baird, Michael) [ORIGINALLY FILED AS DOCUMENT #60 ON 10/23/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>60</u> Order Granting Motion for Admission pro hac vice for Rakhee V. Patel (Related Doc # 57) Order Signed on 10/24/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #61 ON 10/24/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>61</u> Order Granting Motion for Admission pro hac vice of John E. Lucian (Related Doc # 59) Order Signed on 10/24/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #62 ON 10/24/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>62</u> Order Granting Motion for Admission pro hac vice of Phillip Lamberson (Related Doc # 58) Order Signed on 10/24/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #63 ON 10/24/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>63</u> Notice of Appearance and Request for Notice by Michael L. Vild filed by Creditor Patrick Daugherty . (Vild, Michael) [ORIGINALLY FILED AS DOCUMENT #64 ON 10/24/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>64</u> Notice of Appointment of Creditors' Committee Filed by U.S. Trustee. (Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #65 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>65</u> Request of US Trustee to Schedule Section 341 Meeting of Creditors November 20,2019 at 9:30 a.m. Filed by U.S. Trustee. (Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #66 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>66</u> Notice of Meeting of Creditors/Commencement of Case Filed by Highland Capital Management, L.P.. 341(a) meeting to be held on 11/20/2019 at 09:30 AM at J. Caleb Boggs Federal Building, 844 King St., Room 3209, Wilmington, Delaware. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #67 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>67</u> Motion to Authorize /Motion of the Debtor for Entry of an Order (I) Authorizing Bradley D. Sharp to Act as Foreign Representative Pursuant to 11 U.S.C. Section 1505 and (II) Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Form of Order # <u>3</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #68 ON 10/29/2019 IN U.S.

	BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A # <u>3</u> Exhibit B # <u>4</u> Exhibit C – Proposed Order # <u>5</u> 2016 Statement # <u>6</u> Declaration Frank Waterhouse # <u>7</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>69</u> **WITHDRAWN per #437. Application/Motion to Employ/Retain Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Hurst Declaration # <u>3</u> Exhibit B – Proposed Order # <u>4</u> 2016 Statement # <u>5</u> Declaration Frank Waterhouse # <u>6</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Modified on 2/11/2020 (Ecker, C.). (Entered: 12/05/2019)
12/04/2019	<u>70</u> Application/Motion to Employ/Retain Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019(Attachments: # <u>1</u> Notice # <u>2</u> Rule 2016 Statement # <u>3</u> Declaration of Jeffrey N. Pomerantz in Support # <u>4</u> Declaration of Frank Waterhouse # <u>5</u> Proposed Form of Order # <u>6</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #71 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>71</u> Notice of Withdrawal of Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing (related document(s)6) Filed by Highland Capital Management, L.P. (Attachments: # <u>1</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #72 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>72</u> Motion for Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Order # <u>3</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #73 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>73</u> Application/Motion to Employ/Retain Kurtzman Carson Consultants as Administrative Advisor Effective Nunc Pro Tunc to the Petition Date Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Order # <u>3</u> Exhibit B – Gershbein Declaration # <u>4</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #74 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>74</u> Application/Motion to Employ/Retain Development Specialists, Inc. as Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and

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	Restructuring-Related Services, Nunc Pro Tunc As of the Petition Date Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Engagement Letter # <u>3</u> Exhibit B – Sharp Declaration # <u>4</u> Exhibit C – Proposed Order # <u>5</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #75 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Order # <u>3</u> Exhibit B – OCP List # <u>4</u> Exhibit C – Form of Declaration of Disinterestedness # <u>5</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>76</u> **WITHDRAWN by # <u>360</u> ** Motion to Approve /Precautionary Motion of the Debtor for Order Approving Protocols for the Debtor to Implement Certain Transactions in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Appendix I # <u>3</u> Appendix II # <u>4</u> Proposed Form of Order # <u>5</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #77 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Modified on 1/16/2020 (Ecker, C.). (Entered: 12/05/2019)
12/04/2019	<u>77</u> Notice of Appearance and Request for Notice by William A. Hazeltine filed by Interested Party Hunter Mountain Trust . (Okafor, M.) (Hazeltine, William) [ORIGINALLY FILED AS DOCUMENT #78 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.). (Entered: 12/05/2019)
12/04/2019	<u>78</u> Notice of Meeting of Creditors/Commencement of Case (Corrected) Filed by Highland Capital Management, L.P.. 341(a) meeting to be held on 11/20/2019 at 09:30 AM at J. Caleb Boggs Federal Building, 844 King St., Room 3209, Wilmington, Delaware. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #79 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>79</u> Motion to Appear pro hac vice of Brian P. Shaw of Rogge Dunn Group. Receipt Number 0311-27677, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P. (Bibiloni, Jose) [ORIGINALLY FILED AS DOCUMENT #80 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>80</u> Amended Notice of Appearance. The party has consented to electronic service. Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P. (Attachments: # <u>1</u> Certificate of Service) (Bibiloni, Jose) [ORIGINALLY FILED AS DOCUMENT #81 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>81</u> Notice of Appearance and Request for Notice by Jessica Boelter , Alyssa Russell , Matthew A. Clemente , Bojan Guzina filed by Creditor Committee Official Committee of Unsecured Creditors . (Guzina, Bojan) [ORIGINALLY FILED AS DOCUMENT #82 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

12/04/2019	<u>82</u> Initial Reporting Requirements /Initial Monthly Operating Report of Highland Capital Management, LP Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #83 ON 10/31/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>83</u> Order Approving Motion for Admission pro hac vice Brian P. Shaw(Related Doc # 80) Order Signed on 11/1/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #84 ON 11/01/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>84</u> Notice of Appearance and Request for Notice by Sarah E. Silveira , Michael J. Merchant , Asif Attarwala , Jeffrey E. Bjork filed by Interested Parties UBS AG London Branch , UBS Securities LLC . (Attachments: # <u>1</u> Certificate of Service) (Merchant, Michael) [ORIGINALLY FILED AS DOCUMENT #85 ON 11/01/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>85</u> Motion to Change Venue/Inter-district Transfer Filed by Official Committee of Unsecured Creditors. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E – Certificate of Service) (Guzina, Bojan)[ORIGINALLY FILED AS DOCUMENT #86 ON 11/01/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>86</u> Emergency Motion to Shorten Notice With Respect To The Motion Of Official Committee Of Unsecured Creditors To Transfer Venue Of This Case To The United States Bankruptcy Court For The Northern District Of Texas (related document(s)86) Filed by Official Committee of Unsecured Creditors. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Certificate of Service) (Guzina, Bojan) [ORIGINALLY FILED AS DOCUMENT #87 ON 11/01/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>87</u> Order Denying Emergency Motion to Shorten Notice With Respect to The Motion of Official Committee of Unsecured Creditors to Transfer Venue of This Case to the United States Bankruptcy Court for the Northern District Of Texas (Related Doc # 87) Order Signed on 11/4/2019. (JS) [ORIGINALLY FILED AS DOCUMENT #88 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>88</u> Notice of Appearance. The party has consented to electronic service. Filed by Jefferies LLC. (Bowden, William) [ORIGINALLY FILED AS DOCUMENT #89 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>89</u> Motion to Appear pro hac vice of Patrick C. Maxcy. Receipt Number 2770240, Filed by Jefferies LLC. (Bowden, William) [ORIGINALLY FILED AS DOCUMENT #90 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>90</u> Motion to Appear pro hac vice of Lauren Macksoud. Receipt Number 2770389, Filed by Jefferies LLC. (Bowden, William) [ORIGINALLY FILED AS DOCUMENT #91 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>91</u> Notice of Appearance. The party has consented to electronic service. Filed by INTEGRATED FINANCIAL ASSOCIATES, INC. (Carlyon, Candace) [ORIGINALLY FILED AS DOCUMENT #92 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

12/04/2019	<u>92</u> Order Approving Motion for Admission pro hac vice Patrick C. Maxcy(Related Doc # 90) Order Signed on 11/5/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #93 ON 11/05/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>93</u> Order Approving Motion for Admission pro hac vice Lauren Macksoud(Related Doc # 91) Order Signed on 11/5/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #94 ON 11/05/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>94</u> HEARING CANCELLED. Notice of Agenda of Matters not going forward. The following hearing has been cancelled. Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/7/2019 at 03:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (Attachments: # <u>1</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #95 ON 11/05/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>95</u> Notice of Appearance. The party has consented to electronic service. Filed by BET Investments, II, L.P.. (Attachments: # <u>1</u> Certificate of Service) (Kurtzman, Jeffrey) (Attachments: # <u>1</u> Certificate of Service) [ORIGINALLY FILED AS DOCUMENT #96 ON 11/05/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>96</u> Certification of Counsel Regarding Order Scheduling Omnibus Hearing Date Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Proposed Form of Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #97 ON 11/07/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>98</u> Order Scheduling Omnibus Hearings. Omnibus Hearings scheduled for 12/17/2019 at 11:00 AM US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Signed on 11/7/2019. (CAS) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #98 ON 11/07/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>101</u> Exhibit(s) // Notice of Filing of Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized By the Debtor in the Ordinary Course of Business (related document(s)76) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #99 ON 11/07/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>102</u> Affidavit/Declaration of Service for service of [Signed] Order Scheduling Omnibus Hearing Date [Docket No. 98] (related document(s)98) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #100 ON 11/07/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>103</u> Notice of Deposition – Notice to Take Rule 30(b)(6) Deposition Upon Oral Examination of the Debtor, Highland Capital Management, L.P. Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #101 ON 11/10/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>104</u> Notice of Deposition of Frank Waterhouse Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #102 ON 11/10/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)

	(Entered: 12/05/2019)
12/04/2019	<u>106</u> Notice of Service – Notice of Intent to Serve Subpoena Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #103 ON 11/10/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>107</u> Notice of Substitution of Counsel Filed by Alvarez & Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Attachments: # <u>1</u> Certificate of Service) (Ryan, Jeremy) [ORIGINALLY FILED AS DOCUMENT #104 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>108</u> Amended Notice of Appearance. The party has consented to electronic service. Filed by Official Committee of Unsecured Creditors. (Beach, Sean) . [ORIGINALLY FILED AS DOCUMENT #105 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>110</u> Motion to Appear pro hac vice Of Bojan Guzina of Sidley Austin LLP. Receipt Number 2775584, Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #106 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>111</u> Motion to Appear pro hac vice of Alyssa Russell of Sidley Austin LLP. Receipt Number 2620330, Filed by Official Committee of Unsecured Creditors. (Beach, Sean)[ORIGINALLY FILED AS DOCUMENT #107 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>112</u> Motion to Appear pro hac vice of Matthew A. Clemente of Sidley Austin LLP. Receipt Number 2775584, Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #108 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>113</u> Motion to Appear pro hac vice of Paige Holden Montgomery. Receipt Number 2775584, Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #109 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>114</u> Motion to Appear pro hac vice of Penny P. Reid of Sidley Austin. Receipt Number 2775584, Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #110 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>115</u> Order Approving Motion for Admission pro hac vice Bojan Guzina(Related Doc # 106) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #111 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>116</u> Order Approving Motion for Admission pro hac vice Alyssa Russell (Related Doc # 107) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #112 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>117</u> Order Approving Motion for Admission pro hac vice Matthew A. Clemente (Related Doc # 108) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #113 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF

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	DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>118</u> Order Approving Motion for Admission pro hac vice Paige Holden(Related Doc # 109) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #114 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>119</u> Order Approving Motion for Admission pro hac vice Penny P. Reid(Related Doc # 110) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #115 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>120</u> Limited Objection to the Debtors: (I) Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date; and (II) Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date (related document(s)69, 70) Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Certificate of Service) (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #116 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>121</u> Limited Objection and Reservation of Rights of Jefferies LLC to Debtor's Motion for Order Approving Protocols for the Debtor to Implement Certain Transactions in the Ordinary Course of Business (related document(s)77) Filed by Jefferies LLC (Attachments: # <u>1</u> Exhibit A # <u>2</u> Certificate of Service) (Bowden, William) [ORIGINALLY FILED AS DOCUMENT #117 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>122</u> Objection of the Debtor to Motion of Official Committee of Unsecured Creditors to Transfer Venue of This Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86) Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #118 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>123</u> Limited Objection to Motion of the Debtor for an Order Authorizing the Debtor to Retain, Employee, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business (related document(s)76) Filed by Official Committee of Unsecured Creditors (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #119 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>124</u> **WITHDRAWN per # <u>456</u> ** Limited Objection to the Debtor's Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP and Lynn Pinker Cox & Hurst as Special Texas Counsel and Special Litigation Counsel, Nunc Pro Tunc to the Petition Date (related document(s)69, 70) Filed by Official Committee of Unsecured Creditors (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #120 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Modified on 2/19/2020 (Ecker, C.). (Entered: 12/05/2019)
12/04/2019	<u>125</u> Limited Objection to the Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief (related document(s)3) Filed by Official Committee of Unsecured Creditors (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #121 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

12/04/2019	<u>126</u> Joinder to Motion of the Official Committee of Unsecured Creditors For an Order Transferring Venue of this Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86) Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #122 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>127</u> Motion to File Under Seal of the Omnibus Objection of the Official Committee of Unsecured Creditors to the Debtors (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions Filed by Official Committee of Unsecured Creditors. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/19/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Proposed Form of Order) [ORIGINALLY FILED AS DOCUMENT #123 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>128</u> [SEALED in Delaware Bankruptcy Court] Omnibus Objection to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for "Ordinary Course" Transactions (related document(s)5, 75, 77, 123) Filed by Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E) (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #124 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>130</u> Objection to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for "Ordinary Course" Transactions (Redacted) (related document(s)5, 75, 77, 123, 124) Filed by Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E)(Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #125 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>131</u> Notice of Service of Discovery Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #126 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>132</u> Objection Motion of Debtor for Entry of Order Authorizing Debtor to File Under Seal Portions of Creditor Matrix Containing Employee Address Information (related document(s)8) Filed by U.S. Trustee (Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #127 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>133</u> Certificate of Service of Objection of the Debtor to Motion of Official Committee of Unsecured Creditors to Transfer Venue of This Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)118) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #128 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) Modified text on 12/5/2019 (Okafor, M.). (Entered: 12/05/2019)
12/04/2019	<u>134</u> Certificate of Service of Acis's Joinder in Motion to Transfer Venue (related document(s)122) Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #129 ON 11/13/2019 IN

	U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>135</u> Objection U.S. Trustee's Objection to the Motion of Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Provide a Chief Restructuring Officer, Additional Personnel and Financial Advisory and Restructuring Related Services, Nunc Pro Tunc as of the Petition Date (related document(s)75) Filed by U.S. Trustee (Attachments: # <u>1</u> Certificate of Service)(Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #130 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>136</u> Certificate of Service of United States Trustees Objection to Motion of Debtor for Entry of Order Authorizing Debtor to File Under Seal Portions of Creditor Matrix Containing Employee Address Information (related document(s)127) Filed by U.S. Trustee. (Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #131 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>137</u> Certification of Counsel Regarding Debtor's Motion Pursuant to Sections 105(A), 330 and 331 of the Bankruptcy Code for Administrative Order Establishing Procedures for the Interim Compensation and Reimbursement of Expenses of Professionals (related document(s)73) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Blackline Order)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #132 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>138</u> Certificate of No Objection Regarding Debtor's Application for Authorization to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor Effective Nunc Pro Tunc to the Petition Date (related document(s)74) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #133 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>139</u> Certificate of No Objection Regarding Motion of the Debtor for Entry of an Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief (related document(s)4) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #134 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>140</u> Notice of Appearance. The party has consented to electronic service. Filed by Crescent TC Investors, L.P.. (Held, Michael) [ORIGINALLY FILED AS DOCUMENT #135 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>141</u> ORDER ESTABLISHING PROCEDURES FOR INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES OF PROFESSIONALS(Related Doc # 73) Order Signed on 11/14/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #136 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>142</u> ORDER AUTHORIZING THE DEBTOR TO EMPLOY AND RETAIN KURTZMAN CARSON CONSULTANTS LLC AS ADMINISTRATIVE ADVISOR EFFECTIVE NUNC PRO TUNC TO THE PETITION DATE (Related Doc # 74) Order Signed on 11/14/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #137 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

12/04/2019	<u>143</u> ORDER (I) EXTENDING TIME TO FILE SCHEDULES OF ASSETS AND LIABILITIES, SCHEDULES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND STATEMENT OF FINANCIAL AFFAIRS, AND (II) GRANTING RELATED RELIEF (Related Doc # 4) Order Signed on 11/14/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #138 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>144</u> Notice of Appearance. The party has consented to electronic service. Filed by Intertrust Entities. (Desgrosseilliers, Mark) [ORIGINALLY FILED AS DOCUMENT #139 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>145</u> Notice of Appearance. The party has consented to electronic service. Filed by CLO Entities. (Desgrosseilliers, Mark) [ORIGINALLY FILED AS DOCUMENT #140 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>146</u> Notice of Deposition Upon Oral Examination Under Rules 30 and 30(b)(6) of the Debtor, Highland Capital Management, L.P. Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #141 ON 11/15/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>147</u> Notice of Agenda of Matters Scheduled for Hearing Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware (Attachments: # <u>1</u> Certificate of Service) [ORIGINALLY FILED AS DOCUMENT #142 ON 11/15/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>148</u> Affidavit/Declaration of Service for service of (1) [Signed] Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals [Docket No. 136]; (2) [Signed] Order Authorizing the Debtor to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor Effective Nunc Pro Tunc to the Petition Date [Docket No. 137]; and (3) [Signed] Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief [Docket No. 138] (related document(s)136, 137, 138) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #143 ON 11/15/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>149</u> Notice of Hearing regarding Motion to Change Venue/Inter-district Transfer (related document(s)86, 87, 88) Filed by Official Committee of Unsecured Creditors. Hearing scheduled for 12/2/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #144 ON 11/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>150</u> Notice of Rescheduled 341 Meeting (related document(s)67, 79) Filed by Highland Capital Management, L.P.. 341(a) meeting to be held on 12/3/2019 at 10:30 AM (check with U.S. Trustee for location) (Attachments: # <u>1</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #145 ON 11/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>151</u> Agenda of Matters Scheduled for Telephonic Hearing (related document(s)142) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware.(Attachments: # <u>1</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED

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	AS DOCUMENT #146 ON 11/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>152</u> Notice of Appearance. The party has consented to electronic service. Filed by CLO Holdco, Ltd.. (Kane, John) [ORIGINALLY FILED AS DOCUMENT #149 ON 11/19/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>153</u> Amended Notice of Deposition of Frank Waterhouse Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #150 ON 11/19/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>154</u> Notice of Appearance and Request for Notice by Sally T. Siconolfi , Joseph T. Moldovan filed by Interested Party Meta-e Discovery, LLC . (Moldovan, Joseph)[ORIGINALLY FILED AS DOCUMENT #152 ON 11/20/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>156</u> Affidavit/Declaration of Service regarding Notice of Hearing regarding Motion to Change Venue/Inter-district Transfer (related document(s)144) Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #153 ON 11/20/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>158</u> Motion to Appear pro hac vice of Annmarie Chiarello of Winstead PC. Receipt Number 0311-27843, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Bibiloni, Jose) [ORIGINALLY FILED AS DOCUMENT #154 ON 11/20/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Additional attachment(s) added on 12/5/2019 (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>159</u> Order Approving Motion for Admission pro hac vice Annmarie Chiarello (Related Doc # 154) Order Signed on 11/21/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #155 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Additional attachment(s) added on 12/5/2019 (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>162</u> Reply in Support of Motion to Transfer Venue of This Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86, 118) Filed by Official Committee of Unsecured Creditors (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #156 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>163</u> Reply in Support of the Motion of the Official Committee of Unsecured Creditors For an Order Transferring Venue of this Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86, 118, 122, 156) Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #157 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>164</u> Response of the Debtor to Acis's Joinder to Motion to Transfer Venue (related document(s)86, 122) Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #158 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>165</u> Omnibus Reply In Support of (I) Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner as Special Texas Counsel Nunc Pro Tunc to the Petition Date; and (II) Application for an Order Authorizing the Retention and

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	<p>Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Nunc Pro Tunc to Petition Date (related document(s)69, 70, 116, 120) Filed by Highland Capital Management, L.P.(Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #159 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Modified text on 12/5/2019 (Okafor, M.). (Entered: 12/05/2019)</p>
12/04/2019	<p><u>166</u> Omnibus Reply of the Debtor in Support of: (1) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions (related document(s)5, 75, 77) Filed by Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Redline Order Approving Ordinary Course Protocols Motion # <u>2</u> Exhibit B – Redline Order Approving Cash Management Motion # <u>3</u> Exhibit C – Redline Order Approving DSI Retention Motion # <u>4</u> Exhibit D – Summary of Intercompany Transactions) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #160 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)</p>
12/04/2019	<p><u>168</u> Certificate of Service of 1) Response of the Debtor to Acis's Joinder to Motion to Transfer Venue; 2) Omnibus Reply In Support of (I) Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner as Special Texas Counsel Nunc Pro Tunc to the Petition Date, and (II) Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP; and 3) Omnibus Reply of the Debtor in Support of: (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions (related document(s)158, 159, 160) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #161 ON 11/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)</p>
12/04/2019	<p><u>169</u> Exhibit(s) // Notice of Filing of Second Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized By the Debtor in the Ordinary Course of Business (related document(s)76, 99) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #162 ON 11/25/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)</p>
12/04/2019	<p><u>170</u> Certification of Counsel Regarding Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief (related document(s)3, 40) Filed by Highland Capital Management, L.P..(Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #163 ON 11/25/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)</p>
12/04/2019	<p><u>171</u> **WITHDRAWN** – 11/26/2019. SEE DOCKET # 165. Certification of Counsel Regarding Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business (related document(s)76, 99, 162) Filed by Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (O'Neill, James) Modified on 11/26/2019 (DMC). [ORIGINALLY FILED AS DOCUMENT #164 ON 11/25/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)</p>
12/04/2019	<p><u>172</u> Notice of Withdrawal of Certification of Counsel Regarding Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized By the Debtor in the Ordinary Course of Business (related document(s)164) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS</p>

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	DOCUMENT #165 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>173</u> Certification of Counsel Regarding Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized By the Debtor in the Ordinary Course of Business (related document(s)76, 99, 162) Filed by Highland Capital Management, L.P (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #166 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>174</u> Notice of Agenda of Matters Scheduled for Hearing Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/2/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (Attachments: # <u>1</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #167 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>175</u> FINAL ORDER (A) AUTHORIZING THE DEBTOR TO PAY CERTAIN PREPETITION CLAIMS OF CRITICAL VENDORS AND (B) GRANTING RELATED RELIEF (Related document(s) 3, 40) Signed on 11/26/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #168 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # <u>1</u> Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>178</u> Supplemental Declaration in Support of Jeffrey N. Pomerantz in Support of Application Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014–1 for Authorization to Employ and Retain Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date (related document(s)71) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #171 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE(Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>179</u> Certification of Counsel Regarding Debtor's Application Pursuant to Section 327(A) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014–1 for Authorization to Employ and Retain Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date (related document(s)71) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Blackline Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #172 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) (Entered: 12/05/2019)

12/04/2019	<u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Order # <u>3</u> Exhibit B – Declaration of John Dempsey in Support # <u>4</u> Exhibit C – Highland Key Employee Incentives # <u>5</u> Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>181</u> Certificate of Service and Service List for service of Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief [Docket No. 170] (related document(s)170) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #174 ON 11/27/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>182</u> Amended Notice of Agenda of Matters Scheduled for Hearing (related document(s)167) Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/2/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware (Attachments: # <u>1</u> Certificate of Service)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #175 ON 11/27/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>183</u> ORDER PURSUANT TO SECTION 327(a) OF THE BANKRUPTCY CODE, RULE 2414 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND LOCAL RULE 2014-1 AUTHORIZING THE EMPLOYMENT AND RETENTION OF PACHULSKI TANG ZIEHL & JONES LLP AS COUNSEL FOR THE DEBTOR AND DEBTOR IN POSSESSION NUNC PRO TUNC TO THE PETITION DATE (Related Doc # 71) Order Signed on 12/2/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #176 ON 12/02/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>184</u> Certification of Counsel Regarding Order Transferring Venue of This Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86) Filed by Official Committee of Unsecured Creditors. (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #182 ON 12/03/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>185</u> Affidavit/Declaration of Service for service of (1) [Signed] Final Order (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief [Docket No. 168]; (2) [Signed] Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business [Docket No. 169]; and (3) [Signed] Order Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 Authorizing the Employment and Retention of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date [Docket No. 176] (related document(s)168, 169, 176) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #183 ON 12/03/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>186</u> ORDER TRANSFERRING VENUE OF THIS CASE TO THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS (related document(s)86) Order Signed on 12/4/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #184 ON 12/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	

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	<u>187</u> Certificate of Service re: 1) Notice of Chapter 11 Bankruptcy Case; and 2) [Corrected] Notice of Chapter 11 Bankruptcy Case (related document(s)67, 79) Filed by Kurtzman Carson Consultants LLC. (Kass, Albert) ([ORIGINALLY FILED AS DOCUMENT #185 ON 12/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/05/2019	<u>97</u> Motion to appear pro hac vice for Bojan Guzina. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27228141, amount \$ 100.00 (re: Doc# <u>97</u>). (U.S. Treasury)
12/05/2019	<u>99</u> Notice of Appearance and Request for Notice by Linda D. Reece filed by Wylie ISD, Garland ISD, City of Garland. (Reece, Linda)
12/05/2019	<u>100</u> Motion to appear pro hac vice for Matthew A. Clemente. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/05/2019	<u>105</u> Motion to appear pro hac vice for Alyssa Russell. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27228455, amount \$ 100.00 (re: Doc# <u>100</u>). (U.S. Treasury)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27228455, amount \$ 100.00 (re: Doc# <u>105</u>). (U.S. Treasury)
12/05/2019	<u>109</u> Motion to appear pro hac vice for Ira D. Kharasch. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27228644, amount \$ 100.00 (re: Doc# <u>109</u>). (U.S. Treasury)
12/05/2019	<u>129</u> Notice of Appearance and Request for Notice by Laurie A. Spindler filed by City of Allen, Allen ISD, Dallas County, Grayson County, Irving ISD, Kaufman County, Tarrant County. (Spindler, Laurie)
12/05/2019	<u>155</u> Notice of Appearance and Request for Notice by Mark A. Platt filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Platt, Mark)
12/05/2019	<u>157</u> Motion to appear pro hac vice for Marc B. Hankin. Fee Amount \$100 Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Platt, Mark)
12/05/2019	<u>160</u> Motion to appear pro hac vice for Richard Levin. Fee Amount \$100 Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Addendum) (Platt, Mark)
12/05/2019	<u>161</u> Motion to appear pro hac vice for Terri L. Mascherin. Fee Amount \$100 Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Platt, Mark)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27229964, amount \$ 100.00 (re: Doc# <u>157</u>). (U.S. Treasury)

12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27229964, amount \$ 100.00 (re: Doc# <u>160</u>). (U.S. Treasury)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27229964, amount \$ 100.00 (re: Doc# <u>161</u>). (U.S. Treasury)
12/05/2019	<u>167</u> Motion to appear pro hac vice for Gregory V. Demo. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27230422, amount \$ 100.00 (re: Doc# <u>167</u>). (U.S. Treasury)
12/05/2019	<u>188</u> Notice of Appearance and Request for Notice by Juliana Hoffman filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
12/06/2019	<u>189</u> Motion to appear pro hac vice for Jeffrey N. Pomerantz. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/06/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27233957, amount \$ 100.00 (re: Doc# <u>189</u>). (U.S. Treasury)
12/06/2019	<u>190</u> Amended Motion to appear pro hac vice for Jeffrey N. Pomerantz. (related document: <u>189</u>) Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/06/2019	<u>191</u> Motion to appear pro hac vice for John A. Morris. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/06/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27233983, amount \$ 100.00 (re: Doc# <u>191</u>). (U.S. Treasury)
12/06/2019	<u>192</u> INCORRECT ENTRY – Incorrect Event Used; Refiled as Document <u>220</u> . Motion to withdraw as attorney (Eric T. Haitz) Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric) Modified on 12/9/2019 (Dugan, S.). Modified on 12/9/2019 (Dugan, S.).
12/06/2019	<u>193</u> Hearing held on 12/6/2019., Hearing continued (RE: related document(s)) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P., (Continued Hearing to be held on 12/12/2019 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1</u> , (Edmond, Michael)
12/06/2019	<u>194</u> Hearing held on 12/6/2019., Hearing continued (RE: related document(s)) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.) Hearing to be held on 12/12/2019 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1</u> , (Appearances: C. Gibbs, introducing J. Pomerantz and I. Kharasch for Debtor (also J. Morris on phone); M. Clemente and P. Reid for Official Committee of Unsecured Creditors; B. Shaw for Acis; M. Platt for Redeemer Committee of Crusader Fund (also on phone M. Hankin and T. Mascherin); M. Rosenthal for Alvarez and Marsal; P. Maxcy (telephonically) for Jeffries; L. Lambert for UST. Nonevidentiary status conference. Court heard reports about case, parties, and ongoing discussions regarding corporate governance. Schedules will be filed next 12/13/19. At request of parties, another status conference is set for 12/12/19 at 9:30 am (telephonic participation will be allowed if requested). At current time, parties are not requesting that pending motions be set.) (Edmond, Michael)

12/06/2019	<u>195</u> Request for transcript regarding a hearing held on 12/6/2019. The requested turn-around time is hourly. (Edmond, Michael)
12/06/2019	<u>196</u> Order granting motion to appear pro hac vice adding Bojan Guzina for Official Committee of Unsecured Creditors (related document # <u>97</u>) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>197</u> Order granting motion to appear pro hac vice adding Matthew A. Clemente for Official Committee of Unsecured Creditors (related document # <u>100</u>) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>198</u> Order granting motion to appear pro hac vice adding Alyssa Russell for Official Committee of Unsecured Creditors (related document # <u>105</u>) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>199</u> Order granting motion to appear pro hac vice adding Ira D Kharasch for Highland Capital Management, L.P. (related document # <u>109</u>) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>200</u> Order granting motion to appear pro hac vice adding Richard B. Levin for Redeemer Committee of the Highland Crusader Fund (related document # <u>160</u>) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>201</u> Order granting motion to appear pro hac vice adding Terri L. Mascherin for Redeemer Committee of the Highland Crusader Fund (related document # <u>161</u>) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>202</u> Order granting motion to appear pro hac vice adding Gregory V Demo for Highland Capital Management, L.P. (related document # <u>167</u>) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>203</u> Order granting motion to appear pro hac vice adding Marc B. Hankin for Redeemer Committee of the Highland Crusader Fund (related document # <u>157</u>) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>204</u> INCORRECT ENTRY: DRAFT OF MOTION. SEE DOCUMENT 206. Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING THE RETENTION AND EMPLOYMENT OF SIDLEY AUSTIN LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, NUNC PRO TUNC TO OCTOBER 29, 2019</i> Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana) Modified on 12/18/2019 (Rielly, Bill).
12/06/2019	<u>205</u> Application to employ FTI CONSULTING, INC. as Financial Advisor <i>APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS NUNC PRO TUNC TO NOVEMBER 6, 2019</i> Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/06/2019	<u>206</u> Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING THE RETENTION AND EMPLOYMENT OF SIDLEY AUSTIN LLP AS COUNSEL TO THE OFFICIAL</i>

	<i>COMMITTEE OF UNSECURED CREDITORS, NUNC PRO TUNC TO OCTOBER 29, 2019</i> (related document: <u>204</u>) Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana) Modified on 12/18/2019 (Rielly, Bill).
12/06/2019	<u>220</u> Withdrawal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>41</u> Notice of appearance and request for notice). (Dugan, S.) (Entered: 12/09/2019)
12/08/2019	<u>207</u> Transcript regarding Hearing Held 12/6/19 RE: Status and scheduling conference. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/9/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Palmer Reporting Services, Telephone number PalmerRptg@aol.com, 800-665-6251. (RE: related document(s) 193 Hearing held on 12/6/2019., Hearing continued (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.) (Continued Hearing to be held on 12/12/2019 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1</u> , 194 Hearing held on 12/6/2019., Hearing continued (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)) Hearing to be held on 12/12/2019 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1</u> , (Appearances: C. Gibbs, introducing J. Pomerantz and I. Kharasch for Debtor (also J. Morris on phone); M. Clemente and P. Reid for Official Committee of Unsecured Creditors; B. Shaw for Acis; M. Platt for Redeemer Committee of Crusader Fund (also on phone M. Hankin and T. Mascherin); M. Rosenthal for Alvarez and Marsal; P. Maxcy (telephonically) for Jeffries; L. Lambert for UST. Nonevidentiary status conference. Court heard reports about case, parties, and ongoing discussions regarding corporate governance. Schedules will be filed next 12/13/19. At request of parties, another status conference is set for 12/12/19 at 9:30 am (telephonic participation will be allowed if requested). At current time, parties are not requesting that pending motions be set.)). Transcript to be made available to the public on 03/9/2020. (Palmer, Susan)
12/08/2019	<u>208</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>197</u> Order granting motion to appear pro hac vice adding Matthew A. Clemente for Official Committee of Unsecured Creditors (related document <u>100</u>) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>209</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>198</u> Order granting motion to appear pro hac vice adding Alyssa Russell for Official Committee of Unsecured Creditors (related document <u>105</u>) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>210</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>199</u> Order granting motion to appear pro hac vice adding Ira D Kharasch for Highland Capital Management, L.P. (related document <u>109</u>) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>211</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>200</u> Order granting motion to appear pro hac vice adding Richard B. Levin for Redeemer Committee of the Highland Crusader Fund (related document <u>160</u>) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>212</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>201</u> Order granting motion to appear pro hac vice adding Terri L. Mascherin for Redeemer Committee of the Highland Crusader Fund (related document <u>161</u>) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	

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	<u>213</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>202</u> Order granting motion to appear pro hac vice adding Gregory V Demo for Highland Capital Management, L.P. (related document <u>167</u>) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>214</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>203</u> Order granting motion to appear pro hac vice adding Marc B. Hankin for Redeemer Committee of the Highland Crusader Fund (related document <u>157</u>) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/09/2019	<u>215</u> Acknowledgment of split/transfer case received FROM another district, Delaware, Delaware division, Case Number 19–12239. (Okafor, M.)
12/09/2019	<u>216</u> Order granting motion to appear pro hac vice adding Jeffrey N. Pomerantz for Highland Capital Management, L.P. (related document # <u>190</u>) Entered on 12/9/2019. (Banks, Courtney)
12/09/2019	<u>217</u> Order granting motion to appear pro hac vice adding John A. Morris for Highland Capital Management, L.P. (related document # <u>191</u>) Entered on 12/9/2019. (Banks, Courtney)
12/09/2019	<u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab Objections due by 12/23/2019. (Attachments: # <u>1</u> Declaration # <u>2</u> Proposed Order) (Crooks, David)
12/09/2019	<u>219</u> Notice of Appearance and Request for Notice by Charles Martin Persons Jr. filed by Creditor Committee Official Committee of Unsecured Creditors. (Persons, Charles)
12/09/2019	Receipt of filing fee for Motion for relief from stay(19–34054–sgj11) [motion,mrlfsty] (181.00). Receipt number 27240994, amount \$ 181.00 (re: Doc# <u>218</u>). (U.S. Treasury)
12/09/2019	<u>221</u> Notice of Appearance and Request for Notice by Brian Patrick Shaw filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Shaw, Brian)
12/09/2019	<u>222</u> Motion to appear pro hac vice for Dennis M. Twomey. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/09/2019	Receipt of filing fee for Motion to Appear pro hac vice(19–34054–sgj11) [motion,mprohac] (100.00). Receipt number 27241671, amount \$ 100.00 (re: Doc# <u>222</u>). (U.S. Treasury)
12/09/2019	<u>223</u> Certificate of service re: 1) <i>Application Pursuant to Fed. R. Bankr. P. 2014(a) for Order Under Section 1103 of the Bankruptcy Code Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor to the Official Committee of Unsecured Creditors Nunc Pro Tunc to November 6, 2019; and 2) [Amended] Application of the Official Committee of Unsecured Creditors, Pursuant to Sections 328 and 1103 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2014, for an Order Approving the Retention and Employment of Sidley Austin LLP as Counsel to the Official Committee of Unsecured Creditors, Nunc Pro Tunc to October 29, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>205</u> Application to employ FTI CONSULTING, INC. as Financial Advisor <i>APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS NUNC PRO TUNC TO NOVEMBER 6, 2019</i> Filed by Creditor Committee Official

	Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors, <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING THE RETENTION AND EMPLOYMENT OF SIDLEY AUSTIN LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, NUNC PRO TUNC TO OCTOBER 29, 2019</i> (related document: <u>204</u>) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
12/10/2019	<u>224</u> Certificate Certificate of Conference filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab (RE: related document(s) <u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181.). (Crooks, David)
12/10/2019	<u>225</u> Certificate of service re: Certificate of Service filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab (RE: related document(s) <u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181., <u>224</u> Certificate (generic)). (Attachments: # <u>1</u> Service List) (Crooks, David)
12/10/2019	<u>226</u> Application to employ Young Conaway Stargatt & Taylor, LLP as Attorney (<i>Co-Counsel</i>) <i>Nunc Pro Tunc</i> Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/10/2019	<u>227</u> INCORRECT ENTRY: DEFICIENCIES ARE DUE 12/13/2019 – Notice of deficiency. Schedule A/B due 10/30/2019. Schedule D due 10/30/2019. Schedule E/F due 10/30/2019. Schedule G due 10/30/2019. Schedule H due 10/30/2019. Declaration Under Penalty of Perjury for Non-individual Debtors due 10/30/2019. Summary of Assets and Liabilities and Certain Statistical Information due 10/30/2019. Statement of Financial Affairs due 10/30/2019. (Okafor, M.) Modified on 12/10/2019 (Okafor, M.).
12/10/2019	<u>228</u> Notice of deficiency. Schedule A/B due 12/13/2019. Schedule D due 12/13/2019. Schedule E/F due 12/13/2019. Schedule G due 12/13/2019. Schedule H due 12/13/2019. Declaration Under Penalty of Perjury for Non-individual Debtors due 12/13/2019. Summary of Assets and Liabilities and Certain Statistical Information due 12/13/2019. Statement of Financial Affairs due 12/13/2019. (Okafor, M.)
12/10/2019	<u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020. (Neary, William)
12/10/2019	<u>230</u> Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
12/10/2019	<u>231</u> Notice of Appearance and Request for Notice by Zachery Z. Annable filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/11/2019	<u>232</u> Joint Motion to continue hearing on (related documents 194 Hearing held, Hearing set/continued) <i>Joint Motion to Continue Status Conference</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Proposed Order # <u>2</u> Service List) (Hayward, Melissa)
12/11/2019	<u>233</u> Motion to appear pro hac vice for Michael I. Baird. Fee Amount \$100 Filed by Creditor Pension Benefit Guaranty Corporation (Attachments: # <u>1</u> Certificate of Service) (Baird, Michael)

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12/11/2019	<u>234</u> Order granting joint motion to continue hearing on (related document # <u>232</u>) (related documents Hearing held) Status Conference to be held on 12/18/2019 at 09:30 AM. Entered on 12/11/2019. (Banks, Courtney)
12/11/2019	<u>235</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From October 16, 2019 Through October 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 10/16/2019 to 10/31/2019, Fee: \$383,583.75, Expenses: \$9,958.84. Filed by Debtor Highland Capital Management, L.P. Objections due by 1/2/2020. (Pomerantz, Jeffrey)
12/11/2019	<u>236</u> Motion to appear pro hac vice for Lauren Macksoud. Fee Amount \$100 Filed by Interested Party Jefferies LLC (Doherty, Casey)
12/11/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27250084, amount \$ 100.00 (re: Doc# <u>236</u>). (U.S. Treasury)
12/11/2019	<u>237</u> Motion to appear pro hac vice for Patrick C. Maxcy. Fee Amount \$100 Filed by Interested Party Jefferies LLC (Doherty, Casey)
12/11/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27250165, amount \$ 100.00 (re: Doc# <u>237</u>). (U.S. Treasury)
12/11/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (0.00). Receipt Number KF – No Fee Due, amount \$ 0.00 (re: Doc <u>233</u>). (Floyd)
12/11/2019	<u>238</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>216</u> Order granting motion to appear pro hac vice adding Jeffrey N. Pomerantz for Highland Capital Management, L.P. (related document <u>190</u>) Entered on 12/9/2019.) No. of Notices: 1. Notice Date 12/11/2019. (Admin.)
12/11/2019	<u>239</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>217</u> Order granting motion to appear pro hac vice adding John A. Morris for Highland Capital Management, L.P. (related document <u>191</u>) Entered on 12/9/2019.) No. of Notices: 1. Notice Date 12/11/2019. (Admin.)
12/12/2019	<u>240</u> Notice of Appearance and Request for Notice by J. Seth Moore filed by Creditor Siepe, LLC. (Moore, J.)
12/12/2019	<u>241</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Charles Harder)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
12/12/2019	<u>242</u> Order granting motion to appear pro hac vice adding Michael I. Baird for Pension Benefit Guaranty Corporation (related document # <u>233</u>) Entered on 12/12/2019. (Okafor, M.)
12/12/2019	<u>243</u> BNC certificate of mailing. (RE: related document(s) <u>227</u> INCORRECT ENTRY: DEFICIENCIES ARE DUE 12/13/2019 – Notice of deficiency. Schedule A/B due 10/30/2019. Schedule D due 10/30/2019. Schedule E/F due 10/30/2019. Schedule G due 10/30/2019. Schedule H due 10/30/2019. Declaration Under Penalty of Perjury for Non-individual Debtors due 10/30/2019. Summary of Assets and Liabilities and Certain Statistical Information due 10/30/2019. Statement of Financial Affairs due 10/30/2019. (Okafor, M.) Modified on 12/10/2019 (Okafor, M.)) No. of Notices: 8. Notice Date 12/12/2019. (Admin.)

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12/12/2019	<u>244</u> BNC certificate of mailing. (RE: related document(s) <u>228</u> Notice of deficiency. Schedule A/B due 12/13/2019. Schedule D due 12/13/2019. Schedule E/F due 12/13/2019. Schedule G due 12/13/2019. Schedule H due 12/13/2019. Declaration Under Penalty of Perjury for Non-individual Debtors due 12/13/2019. Summary of Assets and Liabilities and Certain Statistical Information due 12/13/2019. Statement of Financial Affairs due 12/13/2019. (Okafor, M.)) No. of Notices: 8. Notice Date 12/12/2019. (Admin.)
12/13/2019	<u>245</u> Certificate of service re: <i>1) Application of the Official Committee of Unsecured Creditors to Retain and Employ Young Conaway Stargatt & Taylor, LLP as Co-Counsel, Nunc Pro Tunc to November 8, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>226</u> Application to employ Young Conaway Stargatt & Taylor, LLP as Attorney (Co-Counsel) <i>Nunc Pro Tunc</i> Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
12/13/2019	<u>246</u> Certificate of service re: <i>1) First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from October 16, 2019 Through October 31, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>235</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From October 16, 2019 Through October 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 10/16/2019 to 10/31/2019, Fee: \$383,583.75, Expenses: \$9,958.84. Filed by Debtor Highland Capital Management, L.P. Objections due by 1/2/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/13/2019	<u>247</u> Schedules: Schedules A/B and D-H with Summary of Assets and Liabilities (with Declaration Under Penalty of Perjury for Non-Individual Debtors.). Filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>228</u> Notice of deficiency). (Attachments: # <u>1</u> Global notes regarding schedules) (Hayward, Melissa)
12/13/2019	<u>248</u> Statement of financial affairs for a non-individual . Filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>228</u> Notice of deficiency). (Attachments: # <u>1</u> Global notes regarding SOFA) (Hayward, Melissa)
12/13/2019	<u>249</u> BNC certificate of mailing – meeting of creditors. (RE: related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.) No. of Notices: 8. Notice Date 12/13/2019. (Admin.)
12/13/2019	<u>250</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>234</u> Order granting joint motion to continue hearing on (related document <u>232</u>) (related documents Hearing held) Status Conference to be held on 12/18/2019 at 09:30 AM. Entered on 12/11/2019.) No. of Notices: 1. Notice Date 12/13/2019. (Admin.)
12/16/2019	<u>251</u> Order granting motion to appear pro hac vice adding Lauren Macksoud for Jefferies LLC (related document # <u>236</u>) Entered on 12/16/2019. (Dugan, S.)
12/16/2019	<u>252</u> Order granting motion to appear pro hac vice adding Patrick C. Maxcy for Jefferies LLC (related document # <u>237</u>) Entered on 12/16/2019. (Dugan, S.)
12/16/2019	<u>253</u> Order rescheduling status conference (RE: related document(s) <u>1</u> Order transferring case filed by Debtor Highland Capital Management, L.P.). Status Conference to be held on 12/18/2019 at 10:30 AM at Dallas Judge Jernigan Ctrm. Entered on 12/16/2019 (Dugan, S.)
12/17/2019	<u>254</u> Notice of Appearance and Request for Notice by Jason Patrick Kathman filed by Creditor Patrick Daugherty. (Kathman, Jason)

12/18/2019	<u>255</u> Declaration re: <i>Supplemental Declaration In Support of</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T</i>). (Hoffman, Juliana)
12/18/2019	Hearing held on 12/18/2019. (RE: related document(s) <u>1</u> Status/Scheduling Conference; Order transferring case number 19–12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.) (Appearances: J. Pomerantz and I. Kharasch for Debtor; M. Hayward, local counsel for Debtor; M. Clemente and P. Reid for Unsecured Creditors Committee; M. Platt and T. Mascherin and M. Hankin (each telephonically) for Redeemer Committee; L. Spindler for taxing authorities; A. Chiarello and R. Patel (telephonically) for Acis; L. Lambert for UST; P. Maxcy (telephonically) for Jeffries. Nonevidentiary status conference. Court heard reports regarding continued negotiations between Debtor and UCC regarding a proposed management structure for Debtor and ordinary course protocols. Debtor expects to file a motion for approval of same (if agreements reached) by 12/27/19 for a 1/9/20 hearing. Otherwise, UCC will file a motion for a chapter 11 trustee (which, if filed, will be filed 12/30/19 and set 1/20/20–1/21/20). Scheduling order to be submitted. Also, US Trustee announced intention to move for a Chapter 11 Trustee.) (Edmond, Michael)
12/18/2019	<u>256</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>251</u> Order granting motion to appear pro hac vice adding Lauren Macksoud for Jefferies LLC (related document <u>236</u>) Entered on 12/16/2019. (Dugan, S.)) No. of Notices: 1. Notice Date 12/18/2019. (Admin.)
12/18/2019	<u>257</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>252</u> Order granting motion to appear pro hac vice adding Patrick C. Maxcy for Jefferies LLC (related document <u>237</u>) Entered on 12/16/2019. (Dugan, S.)) No. of Notices: 1. Notice Date 12/18/2019. (Admin.)
12/19/2019	<u>258</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Dechert LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Demo, Gregory)
12/19/2019	<u>259</u> Support/supplemental document to the <i>Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>7</u> Motion to maintain bank accounts.). (Hayward, Melissa)
12/19/2019	<u>260</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (ASW Law Limited)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/19/2019	<u>261</u> Certificate of service re: <i>Disclosure Declaration of Ordinary Course Professional</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>241</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Charles Harder)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/20/2019	<u>262</u> Certificate of service re: <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
12/20/2019	<u>263</u> Certificate of service re: <i>Supplemental Declaration of Bojan Guzina in Support of Application of the Official Committee of Unsecured Creditors, Pursuant to Sections 328 and</i>

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	<i>1103 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2014, for an Order Approving the Retention and Employment of Sidley Austin LLP as Counsel to the Official Committee of Unsecured Creditors Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>255</u> Declaration re: Supplemental Declaration In Support of filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</i>
12/20/2019	<i><u>264</u> Certificate of service re: Supplement to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>259</u> Support/supplemental document to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>7</u> Motion to maintain bank accounts.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i>
12/22/2019	<i><u>265</u> Objection to (related document(s): <u>176</u> Document) Limited Objection of The Official Committee of Unsecured Creditors to the Retention of Harder LLP as Ordinary Course Professional filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)</i>
12/23/2019	<i><u>266</u> Declaration re: Disclosure Declaration of Ordinary Course Professional (Houlihan Lokey Financial Advisors Inc.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)</i>
12/23/2019	<i><u>267</u> Declaration re: Disclosure Declaration of Ordinary Course Professional (Rowlett Law PLLC) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)</i>
12/23/2019	<i><u>268</u> Declaration re: Disclosure Declaration of Ordinary Course Professional (DLA Piper LLP (US)) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)</i>
12/23/2019	<i><u>269</u> Agreed scheduling Order (RE: related document(s) <u>1</u> Order transferring case filed by Debtor Highland Capital Management, L.P.). Entered on 12/23/2019 (Blanco, J.)</i>
12/23/2019	<i><u>270</u> Application for compensation – First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019 for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)</i>
12/23/2019	<i><u>271</u> Trustee's Motion to appoint trustee Filed by U.S. Trustee United States Trustee (Lambert, Lisa)</i>
12/23/2019	<i><u>272</u> Trustee's Objection to Motion to Seal Official Committee's Omnibus Objection and Supporting Exhibits (RE: related document(s) <u>127</u> Document) (Lambert, Lisa)</i>
12/23/2019	<i><u>273</u> Motion for leave to Extend Deadline to Object to Motion for Relief of Stay of Pension Denmark (related document(s) <u>218</u> Motion for relief from stay) Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors Objections due by 1/6/2020. (Hoffman, Juliana)</i>

12/24/2019	<u>274</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Carey Olsen Cayman Limited)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/24/2019	<u>275</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Hunton Andrews Kurth LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/24/2019	<u>276</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Wilmer Cutler Pickering Hale and Dorr LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/25/2019	<u>277</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>269</u> Agreed scheduling Order (RE: related document(s) <u>1</u> Order transferring case filed by Debtor Highland Capital Management, L.P.). Entered on 12/23/2019 (Blanco, J.)) No. of Notices: 1. Notice Date 12/25/2019. (Admin.)
12/26/2019	<u>278</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Kim & Chang)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/26/2019	<u>279</u> Certificate of service re: 1) <i>Disclosure Declaration of Ordinary Course Professional</i> ; 2) <i>Disclosure Declaration of Ordinary Course Professional</i> ; 3) <i>Declaration of Marc D. Katz</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>266</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Houlihan Lokey Financial Advisors Inc.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>267</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Rowlett Law PLLC)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>268</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (DLA Piper LLP (US))</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/27/2019	<u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/27/2019	<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order) (Hayward, Melissa)
12/27/2019	<u>282</u> Support/supplemental document to the Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring Related Services, Nunc Pro Tunc as of the Petition Date filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). (Attachments: # <u>1</u> Exhibit A) (Hayward, Melissa)
12/27/2019	<u>283</u> Motion for expedited hearing(related documents <u>281</u> Motion to compromise controversy) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Hayward, Melissa)
12/28/2019	<u>284</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C –

	Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>180</u> , (Attachments: # <u>1</u> Exhibit) (Hayward, Melissa)
12/28/2019	<u>285</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>177</u> , (Attachments: # <u>1</u> Exhibit) (Hayward, Melissa)
12/30/2019	<u>286</u> Application for compensation <i>Second Monthly Application for Compensation and for Reimbursement of Expenses for the Period from November 1, 2019 through November 30, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 11/1/2019 to 11/30/2019, Fee: \$798,767.50, Expenses: \$26,317.71. Filed by Debtor Highland Capital Management, L.P. Objections due by 1/21/2020. (Pomerantz, Jeffrey)
12/30/2019	<u>287</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u> , (Hayward, Melissa)
12/31/2019	<u>288</u> Certificate No Objection to Retention of Sidley Austin LLP filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T</i>). (Hoffman, Juliana)
12/31/2019	<u>289</u> Debtor-in-possession monthly operating report for filing period November 1, 2019 to November 30, 2019 filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
12/31/2019	<u>290</u> Certificate No Objection to Retention of FTI Consulting, Inc. filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>205</u> Application to employ FTI CONSULTING, INC. as Financial Advisor <i>APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVIS</i>). (Hoffman, Juliana)
12/31/2019	<u>291</u> Order granting motion for expedited hearing (Related Doc# <u>283</u>)(document set for hearing: <u>281</u> Motion to compromise controversy) Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u> , Entered on 12/31/2019. (Whitaker, Sheniqua)
01/02/2020	<u>292</u> Certificate of service re: 1) <i>Disclosure Declaration of Ordinary Course Professional</i> ; 2) <i>Disclosure Declaration Alexander G. McGeoch in Support of Hunton Andrews Kurth LLP as Ordinary Course Professional</i> ; 3) <i>Disclosure Declaration of Ordinary Course Professional</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>274</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Carey Olsen Cayman Limited)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>275</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Hunton</i>

	<i>Andrews Kurth LLP</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>276</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Wilmer Cutler Pickering Hale and Dorr LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/02/2020	<u>293</u> Certificate of service re: <i>Disclosure Declaration of Ordinary Course Professional</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>278</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Kim & Chang)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/02/2020	<u>294</u> Certificate Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>226</u> Application to employ Young Conaway Stargatt & Taylor, LLP as Attorney (<i>Co-Counsel</i>) <i>Nunc Pro Tunc</i>). (Hoffman, Juliana)
01/02/2020	<u>295</u> Notice of Appearance and Request for Notice by Edwin Paul Keiffer filed by Interested Party Hunter Mountain Trust. (Keiffer, Edwin)
01/02/2020	<u>296</u> Certificate of service re: <i>Documents Served on December 27, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors, <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>282</u> Support/supplemental document to the Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring Related Services, <i>Nunc Pro Tunc</i> as of the Petition Date filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., <u>283</u> Motion for expedited hearing(related documents <u>281</u> Motion to compromise controversy) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/02/2020	<u>297</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>291</u> Order granting motion for expedited hearing (Related Doc <u>283</u>)(document set for hearing: <u>281</u> Motion to compromise controversy) Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u> , Entered on 12/31/2019.) No. of Notices: 2. Notice Date 01/02/2020. (Admin.)
01/03/2020	<u>298</u> Order Regarding Telephonic Appearances Entered on 1/3/2020 (Okafor, M.)
01/03/2020	<u>299</u> Motion to extend time to (RE: related document(s) <u>273</u> Motion for leave) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 1/8/2020. (Hoffman, Juliana)
01/03/2020	<u>300</u> Order granting motion to appear pro hac vice adding Dennis M. Twomey for Official Committee of Unsecured Creditors (related document # <u>222</u>) Entered on 1/3/2020. (Okafor, M.)
01/03/2020	<u>301</u> Order granting the joint motion to extend time to object to the motion of PensionDanmark's motion for relief from the automatic stay (related document # <u>273</u>). The Committee and the Debtor shall have until January 6, 2020 to object to PensionDanmarks

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	Stay Relief Motion Entered on 1/3/2020. (Okafor, M.)
01/05/2020	<u>302</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>298</u> Order Regarding Telephonic Appearances Entered on 1/3/2020 (Okafor, M.)) No. of Notices: 45. Notice Date 01/05/2020. (Admin.)
01/05/2020	<u>303</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>300</u> Order granting motion to appear pro hac vice adding Dennis M. Twomey for Official Committee of Unsecured Creditors (related document <u>222</u>) Entered on 1/3/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/05/2020. (Admin.)
01/06/2020	<u>304</u> Order granting <u>299</u> joint motion to extend time to object to the motion of PensionDanmark's motion for relief from the automatic stay (Re: related document(s) <u>299</u> Motion to extend time to (RE: related document(s) <u>273</u> Motion for leave)) Entered on 1/6/2020. (Okafor, M.)
01/06/2020	<u>305</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>180</u> , (Annable, Zachery)
01/06/2020	<u>306</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>177</u> , (Annable, Zachery)
01/06/2020	<u>307</u> Trustee's Objection to <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> (RE: related document(s) <u>280</u> Motion for protective order) (Lambert, Lisa)
01/06/2020	<u>308</u> Motion to appear pro hac vice for Asif Attarwala. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana)
01/06/2020	<u>309</u> Motion to appear pro hac vice for Kimberly A. Posin. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana)
01/06/2020	<u>310</u> Motion to appear pro hac vice for Andrew Clubok. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana)
01/06/2020	<u>311</u> Motion to appear pro hac vice for Kuan Huang. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana)
01/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27322441, amount \$ 100.00 (re: Doc# <u>308</u>). (U.S. Treasury)

01/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27322441, amount \$ 100.00 (re: Doc# <u>309</u>). (U.S. Treasury)
01/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27322441, amount \$ 100.00 (re: Doc# <u>310</u>). (U.S. Treasury)
01/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27322441, amount \$ 100.00 (re: Doc# <u>311</u>). (U.S. Treasury)
01/06/2020	<u>312</u> Response opposed to (related document(s): <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Jefferies LLC. (Attachments: # <u>1</u> Exhibit A) (Doherty, Casey)
01/06/2020	<u>313</u> Trustee's Objection to <i>Motion to Approve Joint Agreement</i> (RE: related document(s) <u>281</u> Motion to compromise controversy) (Lambert, Lisa)
01/06/2020	<u>314</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
01/06/2020	<u>315</u> Certificate of service re: <i>1) Notice of Hearing on Debtors Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code for Authority to Employ Mercer (US) Inc. as Compensation Consultant; to held on January 9, 2020 at 9:30 a.m. (CT); and 2) Notice of Hearing on Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief; to be held on January 9, 2020 at 9:30 a.m. (CT)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>284</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>180</u> , (Attachments: # 1 Exhibit) filed by Debtor Highland Capital Management, L.P., <u>285</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>177</u> , (Attachments: # 1 Exhibit) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/06/2020	<u>316</u> Certificate of service re: <i>1) Second Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from November 1, 2019 Through November 30, 2019; 2) Notice of Hearing re: Motion of the Debtor to Approve Settlement with Official Committee of</i>

	<p><i>Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course; to be Held on January 9, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>286</u> Application for compensation <i>Second Monthly Application for Compensation and for Reimbursement of Expenses for the Period from November 1, 2019 through November 30, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 11/1/2019 to 11/30/2019, Fee: \$798,767.50, Expenses: \$26,317.71. Filed by Debtor Highland Capital Management, L.P. Objections due by 1/21/2020. filed by Debtor Highland Capital Management, L.P., <u>287</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/07/2020	<p><u>317</u> Order granting motion to appear pro hac vice adding Asif Attarwala for UBS AG London Branch and UBS Securities LLC (related document # <u>308</u>) Entered on 1/7/2020. (Okafor, M.)</p>
01/07/2020	<p><u>318</u> Order granting motion to appear pro hac vice adding Kimberly A. Posin for UBS AG London Branch and UBS Securities LLC (related document # <u>309</u>) Entered on 1/7/2020. (Okafor, M.)</p>
01/07/2020	<p><u>319</u> Order granting motion to appear pro hac vice adding Andrew Clubok for UBS AG London Branch and UBS Securities LLC (related document <u>310</u>) Entered on 1/7/2020. (Okafor, M.) MODIFIED text on 1/7/2020 (Okafor, M.).</p>
01/07/2020	<p><u>320</u> Order granting motion to appear pro hac vice adding Kuan Huang for UBS AG London Branch and UBS Securities LLC (related document # <u>311</u>) Entered on 1/7/2020. (Okafor, M.)</p>
01/07/2020	<p><u>321</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors.). (Annable, Zachery)</p>
01/07/2020	<p><u>322</u> Certificate of service re: Certificate of Service filed by Interested Party Jefferies LLC (RE: related document(s)<u>312</u> Response). (Doherty, Casey)</p>
01/07/2020	<p><u>323</u> Notice of Appearance and Request for Notice (<i>Amended</i>) by Joseph E. Bain filed by Creditor Issuer Group. (Bain, Joseph)</p>
01/07/2020	<p><u>324</u> ***WITHDRAWN per docket # <u>467</u>** Objection to (related document(s): <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P.)<i>Limited Objection to Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> filed by Creditor Issuer Group. (Bain, Joseph) Modified on 2/24/2020 (Ecker, C.).</p>
01/08/2020	<p><u>325</u> Motion to appear pro hac vice for James T. Bentley. Fee Amount \$100 Filed by Creditor Issuer Group (Anderson, Amy)</p>
01/08/2020	<p>Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27331269, amount \$ 100.00 (re: Doc# <u>325</u>). (U.S. Treasury)</p>
01/08/2020	<p><u>326</u> Notice of Compliance with Local Bankruptcy Rule 2090-4 filed by Creditor Issuer Group. (Anderson, Amy)</p>

01/08/2020	<p><u>327</u> Declaration re: (<i>Declaration of Bradley D. Sharp in Support of the Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors.). (Annable, Zachery)</p>
01/08/2020	<p><u>328</u> Agreed Notice of hearing with <i>PensionDanmark and Highland Capital Management, L.P.</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab Objections due by 12/23/2019. (Attachments: # 1 Declaration # 2 Proposed Order)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>218</u>, (Hoffman, Juliana)</p>
01/08/2020	<p><u>329</u> Response unopposed to (related document(s): <u>313</u> Objection) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Hayward, Melissa) Modified to match docket text to PDF on 1/9/2020 (Ecker, C.).</p>
01/08/2020	<p><u>330</u> Response unopposed to (related document(s): <u>313</u> Objection) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana) Modified text to match PDF on 1/9/2020 (Ecker, C.).</p>
01/08/2020	<p><u>331</u> Certificate of service re: <i>Order Regarding Request for Expedited Hearing; to be Held on January 9, 2020 at 9:30 a.m. (Prevailing Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>291</u> Order granting motion for expedited hearing (Related Doc<u>283</u>)(document set for hearing: <u>281</u> Motion to compromise controversy) Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u>, Entered on 12/31/2019.). (Kass, Albert)</p>
01/08/2020	<p><u>332</u> Certificate of service re: <i>1) Amended Notice of Hearing on Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code for Authority to Employ Mercer (US) Inc. as Compensation Consultant; to be Held on January 21, 2020 at 9:30 a.m. (Central Time); 2) Amended Notice of Hearing on Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief; to be Held on January 21, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>305</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>180</u>, filed by Debtor Highland Capital Management, L.P., <u>306</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>177</u>, filed by Debtor Highland Capital Management, L.P.).</p>

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	(Kass, Albert)
01/09/2020	<u>333</u> Order granting motion to appear pro hac vice adding James T. Bentley for Issuer Group (related document # <u>325</u>) Entered on 1/9/2020. (Okafor, M.)
01/09/2020	<u>334</u> Order granting application to employ Sidley Austin LLP for Official Committee of Unsecured Creditors as Attorney (related document # <u>206</u>) Entered on 1/9/2020. (Okafor, M.)
01/09/2020	<u>335</u> Court admitted exhibits date of hearing 01/09/2020. DEBTOR EXHIBIT 1 ADMITTED. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)) (Jeng, Hawaii)
01/09/2020	<u>336</u> Order granting application to employ FTI Consulting, Inc. as Financial Advisor to The Official Committee of Unsecured Creditors (related document # <u>205</u>) Entered on 1/9/2020. (Okafor, M.)
01/09/2020	<u>337</u> Order granting application to employ Young Conway Stargatt & Taylor, LLP for Official Committee of Unsecured Creditors as Attorney (Co-Counsel) (related document <u>226</u>) Entered on 1/9/2020. (Okafor, M.) Modified to correct Firm name on 1/13/2020 (Ecker, C.).
01/09/2020	<u>338</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors, Strand Advisors, Inc., and James Dondero. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors.). (Hayward, Melissa)
01/09/2020	<u>339</u> Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document # <u>281</u>) Entered on 1/9/2020. (Okafor, M.)
01/09/2020	<u>340</u> Application to employ Hayward & Associates PLLC as Attorney (<i>Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward & Associates PLLC as Local Counsel</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Declaration of Melissa S. Hayward # <u>2</u> Proposed Order) (Annable, Zachery)
01/09/2020	<u>341</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>317</u> Order granting motion to appear pro hac vice adding Asif Attarwala for UBS AG London Branch and UBS Securities LLC (related document <u>308</u>) Entered on 1/7/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/09/2020. (Admin.)
01/09/2020	Hearing held on 1/9/2020. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, I. Kharasch, G. Demo, M. Hayward, and Z. Annabel for Debtor; M. Clemente, P. Reid and D. Tumi for Unsecured Creditors Committee; A. Chiarello and R. Patel for Asic; L. Lambert for UST; J. Bentley and J. Bain (both telephonically) for CLO and CDO Issuer Group; T. Mascherin and M. Hankin (telephonically) for Redeemer Committee; P. Maxcy (telephonically) for Jeffries. Evidentiary hearing. Motion granted. Counsel to upload appropriate form of order.) (Edmond, Michael) (Entered: 01/10/2020)
01/10/2020	<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date

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	(related document # <u>74</u>) Entered on 1/10/2020. (Okafor, M.)
01/10/2020	<u>343</u> Application for compensation <i>First Monthly Application for Compensation and for Reimbursement of Expenses of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 11/30/2019, Fee: \$795,054.96, Expenses: \$10,247.88. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 1/31/2020. (Hoffman, Juliana)
01/10/2020	<u>344</u> Certificate of service re: <i>Documents Served on January 8, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>327</u> Declaration re: (<i>Declaration of Bradley D. Sharp in Support of the Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors.). filed by Debtor Highland Capital Management, L.P., <u>328</u> Agreed Notice of hearing <i>with PensionDanmark and Highland Capital Management, L.P.</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab Objections due by 12/23/2019. (Attachments: # 1 Declaration # 2 Proposed Order)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>218</u> , filed by Creditor Committee Official Committee of Unsecured Creditors, <u>329</u> Response unopposed to (related document(s): <u>313</u> Objection) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A) (Hayward, Melissa) Modified to match docket text to PDF on 1/9/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>330</u> Response unopposed to (related document(s): <u>313</u> Objection) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana) Modified text to match PDF on 1/9/2020 (Ecker, C.). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
01/10/2020	<u>345</u> Certificate of service re: <i>Documents Served on January 9, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>334</u> Order granting application to employ Sidley Austin LLP for Official Committee of Unsecured Creditors as Attorney (related document <u>206</u>) Entered on 1/9/2020. (Okafor, M.), <u>336</u> Order granting application to employ FTI Consulting, Inc. as Financial Advisor to The Official Committee of Unsecured Creditors (related document <u>205</u>) Entered on 1/9/2020. (Okafor, M.), <u>337</u> Order granting application to employ Conway Stargatt & Taylor, LLP for Official Committee of Unsecured Creditors as Attorney (Co-Counsel) (related document <u>226</u>) Entered on 1/9/2020. (Okafor, M.), <u>338</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors, Strand Advisors, Inc., and James Dondero. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors.). filed by Debtor Highland Capital Management, L.P., <u>340</u> Application to employ Hayward & Associates PLLC as Attorney (<i>Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward & Associates PLLC as Local Counsel</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Melissa S. Hayward # 2 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/10/2020	<u>346</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>319</u> Order granting motion to appear pro hac vice adding Andrew Clubok for UBS AG London Branch and UBS Securities LLC (related document <u>310</u>) Entered on 1/7/2020. (Okafor, M.) MODIFIED text on 1/7/2020 (Okafor, M.).) No. of Notices: 1. Notice Date 01/10/2020. (Admin.)
01/10/2020	<u>347</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>320</u> Order granting motion to appear pro hac vice adding Kuan Huang for UBS AG London Branch

	and UBS Securities LLC (related document 311) Entered on 1/7/2020. (Okafor, M.) No. of Notices: 1. Notice Date 01/10/2020. (Admin.)
01/11/2020	348 BNC certificate of mailing – PDF document. (RE: related document(s) 333 Order granting motion to appear pro hac vice adding James T. Bentley for Issuer Group (related document 325) Entered on 1/9/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/11/2020. (Admin.)
01/12/2020	349 BNC certificate of mailing – PDF document. (RE: related document(s) 342 Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document 74) Entered on 1/10/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/12/2020. (Admin.)
01/13/2020	350 Certificate of service re: <i>(Supplemental) Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 229 Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
01/13/2020	351 Motion to extend time to (Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) Filed by Debtor Highland Capital Management, L.P. Objections due by 2/6/2020. (Attachments: # 1 Exhibit A—Proposed Order) (Annable, Zachery)
01/13/2020	352 DOCKET IN ERROR: Request for transcript regarding a hearing held on 1/9/2020. The requested turn-around time is daily. (Edmond, Michael) Modified on 1/21/2020 REQUEST WAS CANCELLED THE SAME DATE AS REQUESTED OF 1/13/2020. (Edmond, Michael).
01/13/2020	353 Objection to (related document(s): 270 Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i>) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Patel, Rakhee)
01/14/2020	354 Notice (<i>Notice of Final Term Sheet</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 281 Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)). (Attachments: # 1 Exhibit A—Final Term Sheet) (Annable, Zachery)
01/14/2020	355 Certificate of service re: <i>Summary and First Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from October 29, 2019 to and Including November 30, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 343 Application for compensation <i>First Monthly Application for Compensation and for Reimbursement of Expenses of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to 11/30/2019, Fee: \$795,054.96, Expenses: \$10,247.88. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 1/31/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
01/14/2020	356 Certificate of service re: <i>Debtor's Motion for Entry of an Order Extending the Period Within Which it May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 351 Motion to extend time to (Debtor's Motion for

	Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) Filed by Debtor Highland Capital Management, L.P. Objections due by 2/6/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/14/2020	<u>357</u> Witness and Exhibit List <i>in Connection with Motion to Appoint a Chapter 11 Trustee</i> filed by U.S. Trustee United States Trustee (RE: related document(s) <u>271</u> Trustee's Motion to appoint trustee). (Lambert, Lisa)
01/14/2020	<u>358</u> Witness and Exhibit List <i>in connection with Motion to Seal and Joint Motion for an Agreed Protective Order</i> filed by U.S. Trustee United States Trustee (RE: related document(s) <u>10</u> Motion to file document under seal., <u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i>). (Lambert, Lisa)
01/15/2020	<u>359</u> Agreed Motion to continue hearing on (related documents <u>218</u> Motion for relief from stay) Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
01/15/2020	<u>360</u> <i>Withdrawal of Precautionary Motion of the Debtor for Order Approving Protocols for the Debtor to Implement Certain Transactions in the Ordinary Course of Business</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>76</u> Motion by Highland Capital Management, L.P.). (Hayward, Melissa)
01/15/2020	<u>361</u> Order granting motion to continue hearing on (related document # <u>359</u>) (related documents Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181.). It is hereby ORDERED that a hearing on the Stay Relief Motion shall be continued to a later date provided by the Court and mutually acceptable to the Parties. Entered on 1/15/2020. (Okafor, M.)
01/15/2020	<u>362</u> Response opposed to (related document(s): <u>271</u> Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/15/2020	<u>363</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C – Proposed Order # 5 2016 Statement # 6 Declaration Frank Waterhouse # 7 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>69</u> Application/Motion to Employ/Retain Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Hurst Declaration # 3 Exhibit B – Proposed Order # 4 2016 Statement # 5 Declaration Frank Waterhouse # 6 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to

	<p>Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O’Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>259</u> Support/supplemental document to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>7</u> Motion to maintain bank accounts.), <u>271</u> Trustee’s Motion to appoint trustee Filed by U.S. Trustee United States Trustee, <u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>7</u> and for <u>68</u> and for <u>177</u> and for <u>259</u> and for <u>280</u> and for <u>271</u> and for <u>180</u> and for <u>69</u>, (Annable, Zachery)</p>
01/15/2020	<p><u>364</u> Objection to (related document(s): <u>271</u> Trustee’s Motion to appoint trustee filed by U.S. Trustee United States Trustee) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)</p>
01/16/2020	<p><u>365</u> Certificate of service re: Objection to First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel for the Period From October 16, 2019 Through November 30, 2019 filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s)<u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i>). (Chiarello, Annmarie)</p>
01/16/2020	<p><u>366</u> Amended Witness and Exhibit List <i>in Connection with Motion to Appoint a Chapter 11 Trustee</i> filed by U.S. Trustee United States Trustee (RE: related document(s)<u>357</u> List (witness/exhibit/generic)). (Lambert, Lisa)</p>
01/16/2020	<p><u>367</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s)<u>68</u> Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel, <u>69</u> Application to employ Lynn Pinker Cox & Hurst LLP as Special Counsel). (Chiarello, Annmarie)</p>
01/16/2020	<p><u>368</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/17/2020	<p><u>369</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from October 16, 2019, Through November 30, 2019</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Staffing Report) (Annable, Zachery)</p>

01/17/2020	<u>370</u> Joint Motion to continue hearing on (related documents <u>68</u> Application to employ, <u>69</u> Application to employ)(<i>Joint Motion for Continuance of Hearing on (i) Debtor's Application for an Order Authorizing the Employment of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date, and (ii) Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery)
01/17/2020	<u>371</u> Order granting joint motion to continue hearing on (related document # <u>370</u>) (related documents Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel, Application to employ Lynn Pinker Cox & Hurst LLP as Special Counsel). ORDERED that the hearing on the Applications currently scheduled for January 21, 2020 at 9:30 a.m., will be continued to a new hearing date to be determined by the Parties; and it is further Entered on 1/17/2020. (Okafor, M.)
01/17/2020	<u>372</u> Witness and Exhibit List (<i>Debtor's Witness and Exhibit List in Connection with Its Opposition to Motion to Appoint a Chapter 11 Trustee</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>362</u> Response). (Annable, Zachery)
01/19/2020	<u>373</u> Amended Notice (<i>First Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P..). (Annable, Zachery)
01/20/2020	<u>374</u> Amended Notice (<i>Second Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P., <u>373</u> Amended Notice (<i>First Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P..). (Annable, Zachery)
01/21/2020	<u>375</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
01/21/2020	Hearing held on 1/21/2020. (RE: related document(s) <u>271</u> Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Evidentiary hearing. Motion denied. Debtors counsel should upload a form of order consistent with the courts ruling.) (Edmond, Michael)
01/21/2020	Hearing held on 1/21/2020. (RE: related document(s) <u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M.

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	<p>Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted on a final basis. Debtors counsel should upload order.) (Edmond, Michael)</p>
01/21/2020	<p><u>376</u> Certificate of service re: <i>Notice of Final Term Sheet</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>354</u> <i>Notice (Notice of Final Term Sheet)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)). (Attachments: # 1 Exhibit A—Final Term Sheet) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/21/2020	<p>Hearing held on 1/21/2020. (RE: related document(s)<u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion, as narrowed, granted. Debtors counsel should upload order.) (Edmond, Michael)</p>
01/21/2020	<p>Hearing held on 1/21/2020. (RE: related document(s)<u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted. Debtors counsel should upload order.) (Edmond, Michael)</p>
01/21/2020	<p><u>377</u> Certificate of service re: <i>1) Objection of the Debtor to United States Trustee's Motion for an Order Directing the Appointment of a Chapter 11 Trustee; and 2) Notice of Hearing; to be Held on January 21, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>362</u> Response opposed to (related document(s): <u>271</u> Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>363</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF</p>

	<p>DELAWARE] (Okafor, M.), <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C – Proposed Order # 5 2016 Statement # 6 Declaration Frank Waterhouse # 7 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>69</u> Application/Motion to Employ/Retain Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Hurst Declaration # 3 Exhibit B – Proposed Order # 4 2016 Statement # 5 Declaration Frank Waterhouse # 6 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>259</u> Support/supplemental document to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver filed by Debtor Highland Capital Management, L.P. (RE: related document(s) Motion to maintain bank accounts.), <u>271</u> Trustee's Motion to appoint trustee Filed by U.S. Trustee United States Trustee, <u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>7</u> and for <u>68</u> and for <u>177</u> and for <u>259</u> and for <u>280</u> and for <u>271</u> and for <u>180</u> and for <u>69</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/21/2020	<p>Hearing held on 1/21/2020. (RE: related document(s) <u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted, with certain amendments as discussed on the record. Debtors counsel should upload order.) (Edmond, Michael)</p>
01/21/2020	<p>Hearing held on 1/21/2020. (RE: related document(s) <u>127</u> Motion to File Under Seal of the Omnibus Objection of the Official Committee of Unsecured Creditors to the Debtors (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions Filed by Official Committee of Unsecured Creditors. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/19/2019. (Attachments: # 1</p>

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	Notice # 2 Proposed Form of Order) [ORIGINALLY FILED AS DOCUMENT #123 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)(Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion denied for mootness. UCCs counsel should upload order.) (Edmond, Michael)
01/21/2020	<u>378</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses on behalf of the Unsecured Creditors Committee</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 11/30/2019, Fee: \$322,274.88, Expenses: \$4,687.35. Filed by Attorney Juliana Hoffman Objections due by 2/11/2020. (Hoffman, Juliana)
01/21/2020	<u>383</u> Court admitted exhibits date of hearing January 21, 2020 (RE: related document(s) <u>271</u> Trustee's Motion to appoint trustee filed by Lisa Lambert representing the U.S. Trustee) (Court Admitted U.S. Trustee's Exhibits #4, #5, #7, #8, #9, #10 and Took Judicial Notice of Exhibit #11) (Edmond, Michael) (Entered: 01/22/2020)
01/22/2020	<u>379</u> Final Order Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account and Maxim Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P (related document # <u>7</u>) Entered on 1/22/2020. (Okafor, M.)
01/22/2020	<u>380</u> Order Authorizing Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P. (related document # <u>177</u>) Entered on 1/22/2020. (Okafor, M.)
01/22/2020	<u>381</u> Order Granting Application to Employ Mercer (US) Inc. as Compensation Consultant to the debtor (related document # <u>180</u>) Entered on 1/22/2020. (Okafor, M.)
01/22/2020	<u>382</u> Agreed Order Granting Motion for Protective Order (related document # <u>280</u>) Entered on 1/22/2020. (Okafor, M.)
01/22/2020	<u>384</u> Declaration re: <i>Notice / Declaration of Conor P. Tully in Support of the Retention of FTI Consulting, Inc.</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>205</u> Application to employ FTI CONSULTING, INC. as Financial Advisor <i>APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVIS</i>). (Hoffman, Juliana)
01/22/2020	<u>385</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>235</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From October 16, 2019 Through October 31, 2019</i> for Highland C). (Annable, Zachery)
01/22/2020	<u>386</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>286</u> Application for compensation <i>Second Monthly Application for Compensation and for Reimbursement of Expenses for the Period from November 1, 2019 through November 30, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 11/1). (Annable, Zachery)
01/22/2020	<u>387</u> Request for transcript regarding a hearing held on 1/21/2020. The requested turn-around time is hourly. (Edmond, Michael) (Entered: 01/23/2020)

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01/23/2020	<u>388</u> Certificate of service re: First Supplemental Declaration of Conor P. Tully In Support of the Application Authorizing the Employment and Retention of FTI Consulting, Inc., as Financial Advisor to the Official Committee of Unsecured Creditors Nunc Pro Tunc to November 6, 2019 filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>384</u> Declaration). (Hoffman, Juliana)
01/23/2020	<u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt & Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/8/2019 to 1/13/2020, Fee: \$272,300.00, Expenses: \$8,855.56. Filed by Attorney Juliana Hoffman Objections due by 2/13/2020. (Hoffman, Juliana)
01/23/2020	<u>390</u> Supplemental Notice of the <i>Young Conaway Stargatt & Taylor, LLP Final Fee Application</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt & Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/8/2019 to 1/13/2020, Fee: \$272,300.00, Expenses: \$8,855.56. Filed by Attorney Juliana Hoffman Objections due by 2/13/2020.). (Hoffman, Juliana)
01/23/2020	<u>391</u> Certificate of service re: Final Fee Application <i>on behalf of Young Conaway Stargatt & Taylor, LLP</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt & Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Perio). (Hoffman, Juliana)
01/24/2020	<u>392</u> Application for compensation <i>Third Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2019 through December 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 12/1/2019 to 12/31/2019, Fee: \$589,730.35, Expenses: \$26,226.80. Filed by Debtor Highland Capital Management, L.P. Objections due by 2/14/2020. (Pomerantz, Jeffrey)
01/24/2020	<u>393</u> Transcript regarding Hearing Held 01/21/2020 (140 pgs.) RE: Motions. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 04/23/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) Hearing held on 1/21/2020. (RE: related document(s) <u>271</u> Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Evidentiary hearing. Motion denied. Debtors counsel should upload a form of order consistent with the courts ruling.), Hearing held on 1/21/2020. (RE: related document(s) <u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted on a final basis. Debtors counsel should upload

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order.), Hearing held on 1/21/2020. (RE: related document(s)177 Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion, as narrowed, granted. Debtors counsel should upload order.), Hearing held on 1/21/2020. (RE: related document(s)180 Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted. Debtors counsel should upload order.), Hearing held on 1/21/2020. (RE: related document(s)280 Motion for protective order Joint Motion for Entry of an Order Approving the Agreed Protective Order filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted, with certain amendments as discussed on the record. Debtors counsel should upload order.), Hearing held on 1/21/2020. (RE: related document(s)127 Motion to File Under Seal of the Omnibus Objection of the Official Committee of Unsecured Creditors to the Debtors (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions Filed by Official Committee of Unsecured Creditors. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/19/2019. (Attachments: # 1 Notice # 2 Proposed Form of Order) [ORIGINALLY FILED AS DOCUMENT #123 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)(Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion denied for mootness. UCCs counsel should upload order.)). Transcript to be made available to the public on 04/23/2020. (Rehling, Kathy)

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394 Application for compensation *Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019* for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 2/14/2020. (O'Neil, Holland)

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01/24/2020	<u>395</u> Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
01/24/2020	<u>396</u> Motion for expedited hearing(related documents <u>395</u> Motion to extend/shorten time) (<i>Motion for (i) Expedited Hearing on Debtor's Motion for Entry of an Order Pursuant to 11 U.S.C. 1121(d) and Local Rule 3016-1 Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan, or Alternatively, (ii) Entry of a Bridge Order Extending the Exclusivity Period for the Filing of a Chapter 11 Plan Through February 19, 2020</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
01/24/2020	<u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B—Email Correspondence) (Annable, Zachery)
01/24/2020	<u>398</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>381</u> Order Granting Application to Employ Mercer (US) Inc. as Compensation Consultant to the debtor (related document <u>180</u>) Entered on 1/22/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/24/2020. (Admin.)
01/24/2020	<u>399</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>379</u> Final Order Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account and Maxim Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P (related document <u>7</u>) Entered on 1/22/2020. (Okafor, M.)) No. of Notices: 44. Notice Date 01/24/2020. (Admin.)
01/27/2020	<u>400</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
01/27/2020	<u>401</u> Certificate of service re: <i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>368</u> <i>Notice (Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time))</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/27/2020	<u>402</u> Certificate of service re: <i>Documents Served on January 17, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>369</u> <i>Notice (Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from October 16, 2019, Through November 30, 2019)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring—Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—Staffing Report) filed by Debtor Highland Capital Management, L.P., <u>370</u> Joint Motion to continue hearing on (related documents <u>68</u> Application to employ, <u>69</u> Application to employ)(<i>Joint Motion for Continuance of Hearing on (i) Debtor's Application for an Order Authorizing the Employment of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date, and (ii) Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>371</u> Order granting

	<p>joint motion to continue hearing on (related document <u>370</u>) (related documents Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel, Application to employ Lynn Pinker Cox & Hurst LLP as Special Counsel). ORDERED that the hearing on the Applications currently scheduled for January 21, 2020 at 9:30 a.m., will be continued to a new hearing date to be determined by the Parties; and it is further Entered on 1/17/2020. (Okafor, M.), <u>372</u> Witness and Exhibit List (<i>Debtor's Witness and Exhibit List in Connection with Its Opposition to Motion to Appoint a Chapter 11 Trustee</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>362</u> Response). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/27/2020	<p><u>403</u> Certificate of service re: <i>Documents Served on or before January 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>373</u> Amended Notice (<i>First Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>368</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.). filed by Debtor Highland Capital Management, L.P., <u>374</u> Amended Notice (<i>Second Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>368</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P., <u>373</u> Amended Notice (<i>First Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>368</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.).). filed by Debtor Highland Capital Management, L.P., <u>378</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses on behalf of the Unsecured Creditors Committee</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 11/30/2019, Fee: \$322,274.88, Expenses: \$4,687.35. Filed by Attorney Juliana Hoffman Objections due by 2/11/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)</p>
01/27/2020	<p><u>404</u> Certificate of service re: <i>Documents Served on January 22, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>379</u> Final Order Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account and Maxim Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P (related document <u>7</u>) Entered on 1/22/2020. (Okafor, M.), <u>380</u> Order Authorizing Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P. (related document <u>177</u>) Entered on 1/22/2020. (Okafor, M.), <u>381</u> Order Granting Application to Employ Mercer (US) Inc. as Compensation Consultant to the debtor (related document <u>180</u>) Entered on 1/22/2020. (Okafor, M.), <u>382</u> Agreed Order Granting Motion for Protective Order (related document <u>280</u>) Entered on 1/22/2020. (Okafor, M.), <u>385</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>235</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From October 16, 2019 Through October 31, 2019</i> for Highland C). filed by Debtor Highland Capital Management, L.P., <u>386</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>286</u> Application for compensation <i>Second Monthly Application for Compensation and for Reimbursement of Expenses for the Period from November 1, 2019 through November 30, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 11/1). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/27/2020	<p><u>405</u> Debtor-in-possession monthly operating report for filing period 10/16/2019 to 10/31/2019 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/27/2020	<p><u>406</u> Notice (<i>Notice of Filing of Third Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized</i></p>

	<i>by the Debtor in the Ordinary Course of Business</i>) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1—Updated OCP List # <u>2</u> Exhibit 2—Blackline OCP List) (Annable, Zachery)
01/27/2020	<u>407</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional—Shawn Raver</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
01/27/2020	<u>408</u> Notice of hearing(<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>)) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Email Correspondence)). Status Conference to be held on 2/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
01/28/2020	<u>409</u> Order Denying as Moot the Motion of the Official Committee of Unsecured Creditors for an Order Authorizing Filing Under Seal of the Omnibus Objection to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for "Ordinary Course" Transactions (RE: related document(s) <u>128</u> Document and <u>127</u> Motion). Entered on 1/28/2020 (Okafor, M.). Modified linkage on 2/11/2020 (Okafor, M.).
01/28/2020	<u>410</u> Bridge Order extending the exclusivity periods for filing Chapter 11 Plan and granting motion for expedited hearing (Related Doc# <u>396</u>)(document set for hearing: <u>395</u> Motion to extend/shorten time) Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>395</u> , Entered on 1/28/2020. (Okafor, M.)
01/28/2020	<u>411</u> Notice of Appearance and Request for Notice by Shawn M. Christianson Filed by Creditor Oracle America, Inc.. (Christianson, Shawn)
01/28/2020	<u>412</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>395</u> Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>395</u> , (Annable, Zachery)
01/29/2020	<u>413</u> Certificate of service re: 1) <i>First and Final Application of Young Conaway Stargatt & Taylor, LLP as Co-Counsel for the Official Committee of Unsecured Creditors for Allowance of Compensation and Reimbursement of Expenses Incurred for the First and Final Period from November 8, 2019 Through and Including January 13, 2020</i> ; 2) <i>Notice of First and Final Application of Young Conaway Stargatt & Taylor, LLP as Co-Counsel for the Official Committee of Unsecured Creditors for Allowance of Compensation and Reimbursement of Expenses Incurred for the First and Final Period from November 8, 2019 Through and Including January 13, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt & Taylor, LLP as Co-Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/8/2019 to 1/13/2020, Fee: \$272,300.00, Expenses: \$8,855.56. Filed by Attorney Juliana Hoffman Objections due by 2/13/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>390</u> Supplemental Notice of the Young Conaway Stargatt & Taylor, LLP Final Fee Application filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt & Taylor, LLP as Co-Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/8/2019 to 1/13/2020, Fee: \$272,300.00, Expenses: \$8,855.56. Filed by Attorney Juliana Hoffman Objections due by 2/13/2020.</i>). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</i>

01/29/2020	<p><u>414</u> Certificate of service re: <i>Documents Served on January 24, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>392</u> Application for compensation <i>Third Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2019 through December 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 12/1/2019 to 12/31/2019, Fee: \$589,730.35, Expenses: \$26,226.80. Filed by Debtor Highland Capital Management, L.P. Objections due by 2/14/2020. filed by Debtor Highland Capital Management, L.P., <u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 2/14/2020. (O'Neil, Holland), <u>395</u> Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>396</u> Motion for expedited hearing(related documents <u>395</u> Motion to extend/shorten time) (<i>Motion for (i) Expedited Hearing on Debtor's Motion for Entry of an Order Pursuant to 11 U.S.C. 1121(d) and Local Rule 3016–1 Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan, or Alternatively, (ii) Entry of a Bridge Order Extending the Exclusivity Period for the Filing of a Chapter 11 Plan Through February 19, 2020</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Email Correspondence) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/30/2020	<p><u>415</u> Certificate of service re: <i>Documents Served on January 27, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>406</u> Notice (<i>Notice of Filing of Third Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i>) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit 1—Updated OCP List # 2 Exhibit 2—Blackline OCP List) filed by Debtor Highland Capital Management, L.P., <u>407</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional—Shawn Raver</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>408</u> Notice of hearing(<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Email Correspondence)). Status Conference to be held on 2/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/30/2020	<p><u>416</u> Certificate of service re: <i>Documents Served on January 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>409</u> Order Denying as Moot the Motion of the Official Committee of Unsecured Creditors for an Order Authorizing Filing Under Seal of the Omnibus Objection to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for "Ordinary Course" Transactions (RE: related document(s) 128 Document). Entered on 1/28/2020 (Okafor, M.), <u>410</u> Bridge Order extending the exclusivity periods for filing Chapter 11 Plan and granting motion for expedited hearing (Related Doc<u>396</u>)(document set for hearing: <u>395</u> Motion to extend/shorten time) Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>395</u>, Entered on 1/28/2020. (Okafor, M.), <u>412</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>395</u> Motion to extend or limit</p>

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	the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>395</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/31/2020	<u>417</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2019 through December 31, 2019</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Annable, Zachery)
01/31/2020	<u>418</u> Debtor–in–possession monthly operating report for filing period December 1, 2019 to December 31, 2019 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/31/2020	<u>419</u> Motion to extend time to (Agreed Motion to Extend by One Hundred Twenty Days the Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery)
01/31/2020	<u>420</u> Application for compensation <i>Second Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2019 to 12/31/2019, Fee: \$702,665.28, Expenses: \$30,406.08. Filed by Attorney Juliana Hoffman, Creditor Committee Official Committee of Unsecured Creditors Objections due by 2/21/2020. (Attachments: # <u>1</u> Exhibit A Fee Statement # <u>2</u> Exhibit B Expense Detail) (Hoffman, Juliana)
01/31/2020	<u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Form of Bar Date Notice # <u>2</u> Exhibit B—Form of Publication Notice # <u>3</u> Exhibit C—Proposed Order) (Annable, Zachery)
01/31/2020	<u>422</u> Motion for expedited hearing(related documents <u>421</u> Motion for leave) (<i>Motion for Expedited Hearing on Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
02/02/2020	<u>423</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>343</u> Application for compensation <i>First Monthly Application for Compensation and for Reimbursement of Expenses of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 11/30/2019, Fee: \$7). (Hoffman, Juliana)
02/03/2020	<u>424</u> Certificate of service re: <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
02/04/2020	<u>425</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>340</u> Application to employ Hayward & Associates PLLC as Attorney (<i>Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward & Associate</i>). (Hayward, Melissa)

02/04/2020	<p><u>426</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Form of Bar Date Notice # 2 Exhibit B—Form of Publication Notice # 3 Exhibit C—Proposed Order)). Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>421</u>, (Annable, Zachery)</p>
02/05/2020	<p><u>427</u> Order granting motion for expedited hearing (Related Doc# <u>422</u>)(document set for hearing: <u>421</u> Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof) Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>421</u>, Entered on 2/5/2020. (Okafor, M.)</p>
02/05/2020	<p><u>428</u> Order denying motion to appoint trustee. (related document # <u>271</u>) Entered on 2/5/2020. (Okafor, M.)</p>
02/06/2020	<p><u>429</u> Order granting <u>419</u> Motion to Extend Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease by One Hundred and Twenty Days Entered on 2/6/2020. (Okafor, M.)</p>
02/06/2020	<p><u>430</u> Certificate of service re: <i>Documents Served on January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>417</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2019 through December 31, 2019</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring—Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>419</u> Motion to extend time to (Agreed Motion to Extend by One Hundred Twenty Days the Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>420</u> Application for compensation <i>Second Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2019 to 12/31/2019, Fee: \$702,665.28, Expenses: \$30,406.08. Filed by Attorney Juliana Hoffman, Creditor Committee Official Committee of Unsecured Creditors Objections due by 2/21/2020. (Attachments: # 1 Exhibit A Fee Statement # 2 Exhibit B Expense Detail) filed by Creditor Committee Official Committee of Unsecured Creditors, <u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Form of Bar Date Notice # 2 Exhibit B—Form of Publication Notice # 3 Exhibit C—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>422</u> Motion for expedited hearing(related documents <u>421</u> Motion for leave) (<i>Motion for Expedited Hearing on Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/06/2020	<p><u>431</u> Certificate of service re: <i>Notice of Hearing on Debtor's Motion for an Order (I) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (II) Approving the Form and Manner of Notice Thereof</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>426</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Form of Bar Date Notice # 2 Exhibit B—Form of Publication Notice # 3 Exhibit C—Proposed Order)). Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>421</u>, filed by Debtor Highland</p>

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	Capital Management, L.P.). (Kass, Albert)
02/06/2020	<u>432</u> Certificate of service re: <i>(Supplemental) Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
02/07/2020	<u>433</u> Clerk's correspondence requesting an order or a notice of hearing from attorney for debtor. (RE: related document(s) <u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)) Responses due by 2/14/2020. (Ecker, C.)
02/10/2020	<u>434</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>351</u> Motion to extend time to (Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure)). (Hayward, Melissa)
02/10/2020	<u>435</u> Order granting application to employ Hayward & Associates PLLC for Highland Capital Management, L.P. as Local Counsel (related document # <u>340</u>) Entered on 2/10/2020. (Okafor, M.)
02/10/2020	<u>436</u> Certificate of service re: <i>(Supplemental) Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
02/10/2020	<u>437</u> Notice (<i>Notice of Withdrawal of Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>69</u> Application/Motion to Employ/Retain Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Hurst Declaration # 3 Exhibit B – Proposed Order # 4 2016 Statement # 5 Declaration Frank Waterhouse # 6 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
02/10/2020	<u>438</u> **WITHDRAWN by document # <u>443</u> ** Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)). Hearing to be held on 3/11/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>270</u> , (Annable, Zachery) Modified on 2/13/2020 (Ecker, C.).

02/11/2020	<u>439</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>67</u> Motion by Highland Capital Management, L.P.). (Annable, Zachery)
02/12/2020	<u>440</u> Certificate of service re: <i>1) Order Granting Motion for Expedited Hearing on Debtor's Motion for an Order (I) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (II) Approving the Form and Manner of Notice Thereof; to be Held on February 19, 2020 at 9:30 a.m. (Central Time); 2) Order Denying United States Trustee's Motion for an Order Directing the Appointment of a Chapter 11 Trustee</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>427</u> Order granting motion for expedited hearing (Related Doc <u>422</u>)(document set for hearing: <u>421</u> Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof) Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>421</u> , Entered on 2/5/2020. (Okafor, M.), <u>428</u> Order denying motion to appoint trustee. (related document <u>271</u>) Entered on 2/5/2020. (Okafor, M.)). (Kass, Albert)
02/12/2020	<u>441</u> Certificate of service re: <i>Order Extending Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease by One Hundred and Twenty Days</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>429</u> Order granting <u>419</u> Motion to Extend Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease by One Hundred and Twenty Days Entered on 2/6/2020. (Okafor, M.)). (Kass, Albert)
02/12/2020	<u>442</u> Application for compensation <i>Second Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 12/1/2019 to 12/31/2019, Fee: \$89,215.36, Expenses: \$3,955.12. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 3/4/2020. (Hoffman, Juliana)
02/12/2020	<u>443</u> Notice (<i>Notice of Withdrawal of Notice of Hearing on the First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>438</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)). Hearing to be held on 3/11/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>270</u>)). (Annable, Zachery)
02/12/2020	<u>444</u> Certificate No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>378</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses on behalf of the Unsecured Creditors Committee</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 11/30/2019, Fee: \$32). (Hoffman, Juliana)
02/13/2020	<u>445</u> Certificate of service re: <i>1) Order Authorizing and Approving Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward & Associates PLLC as Local Counsel; 2) Notice of Withdrawal of Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date; and 3) Notice of Hearing re: First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 Through November 30, 2019; to be Held on March 11, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related

	<p>document(s)<u>435</u> Order granting application to employ Hayward & Associates PLLC for Highland Capital Management, L.P. as Local Counsel (related document <u>340</u>) Entered on 2/10/2020. (Okafor, M.), <u>437</u> Notice (<i>Notice of Withdrawal of Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>69</u> Application/Motion to Employ/Retain Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Hurst Declaration # 3 Exhibit B – Proposed Order # 4 2016 Statement # 5 Declaration Frank Waterhouse # 6 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>438</u> **WITHDRAWN by document <u>443</u>** Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)). Hearing to be held on 3/11/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>270</u>, (Annable, Zachery) Modified on 2/13/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/13/2020	<p><u>446</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s)<u>68</u> Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel). (Chiarello, Annmarie)</p>
02/13/2020	<p><u>447</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>395</u> Motion to extend or limit the exclusivity period). (Annable, Zachery)</p>
02/13/2020	<p><u>448</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>)). (Annable, Zachery)</p>
02/13/2020	<p><u>449</u> Certificate of service re: 1) <i>Second Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from December 1, 2019 to and Including December 31, 2019</i>; 2) <i>Notice of Withdrawal of Notice of Hearing on the First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 Through November 30, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>442</u> Application for compensation <i>Second Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 12/1/2019 to 12/31/2019, Fee: \$89,215.36, Expenses: \$3,955.12. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 3/4/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, Financial Advisor FTI Consulting, Inc., <u>443</u> Notice (<i>Notice of Withdrawal of Notice of Hearing on the First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>438</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to</p>

	11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)). Hearing to be held on 3/11/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>270.</u>). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/14/2020	<u>450</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt & Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Perio). (Hoffman, Juliana)
02/14/2020	<u>451</u> Motion for relief from stay Fee amount \$181, Filed by Jennifer G. Terry, Joshua Terry Objections due by 3/2/2020. (Attachments: # <u>1</u> Exhibit 1 (Arb Award) # <u>2</u> Exhibit 2 (Rule 11) # <u>3</u> Exhibit 3 (Terry Declaration)) (Shaw, Brian)
02/14/2020	Receipt of filing fee for Motion for relief from stay(19-34054-sgj11) [motion,mrlfsty] (181.00). Receipt number 27457656, amount \$ 181.00 (re: Doc# <u>451</u>). (U.S. Treasury)
02/14/2020	<u>452</u> Notice of hearing filed by Jennifer G. Terry, Joshua Terry (RE: related document(s) <u>451</u> Motion for relief from stay Fee amount \$181, Filed by Jennifer G. Terry, Joshua Terry Objections due by 3/2/2020. (Attachments: # 1 Exhibit 1 (Arb Award) # 2 Exhibit 2 (Rule 11) # 3 Exhibit 3 (Terry Declaration))). Preliminary hearing to be held on 3/11/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Shaw, Brian)
02/14/2020	<u>453</u> Objection to (related document(s): <u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 20</i>) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Patel, Rakhee)
02/14/2020	<u>454</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>68</u> Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel). (Annable, Zachery)
02/17/2020	<u>455</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on February 19, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/18/2020	<u>456</u> Notice of Withdrawal of Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>124</u> Limited Objection to the Debtor's Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP and Lynn Pinker Cox & Hurst as Special Texas Counsel and Special Litigation Counsel, Nunc Pro Tunc to the Petition Date (related document(s)69, 70) Filed by Official Committee of Unsecured Creditors (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #120 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Hoffman, Juliana)
02/18/2020	<u>457</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>392</u> Application for compensation <i>Third Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2019 through December 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 12/1/). (Annable, Zachery)
02/19/2020	<u>458</u> Order granting first and final application for compensation (related document # <u>389</u>) granting for Young Conaway Stargatt & Taylor, LLP as co-counsel for Official Committee of Unsecured Creditors, fees awarded: \$272300.00, expenses awarded: \$8855.56 Entered on 2/19/2020. (Okafor, M.)

02/19/2020	<u>459</u> Order granting <u>351</u> Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure Entered on 2/19/2020. (Okafor, M.)
02/19/2020	<u>460</u> Order granting <u>395</u> Debtor's Motion to extend or limit the exclusivity period through and including June 12, 2020 Entered on 2/19/2020. (Okafor, M.)
02/19/2020	<u>461</u> Order granting motion of the Debtor for Entry of an Order (I) Authorizing Bradley D. Sharp to Act as Foreign Representative Pursuant to 11 U.S.C. Section 1505 and (II) Granting Related Relief (related document # <u>67</u>) Entered on 2/19/2020. (Okafor, M.)
02/19/2020	<u>462</u> Court admitted exhibits date of hearing February 19, 2020 (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P., (Court Admitted Debtors/Plaintiffs Exhibits #1, #2, #3, #4, #5, #6, #7 #8, & #9; Also Admitted Defendant/Respondent Exhibits #16 & #27 only). (Edmond, Michael)
02/19/2020	<u>463</u> Request for transcript regarding a hearing held on 2/19/2020. The requested turn-around time is hourly (Jeng, Hawaii)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Evidentiary hearing. Court granted in part and denied in part. Foley is approved for representation of Highland in all Acis bankruptcy case and adversary proceeding matters; court does not approve Highland paying Foley for Foleys representation of Neutra in Neutras appeal of Acis involuntary order for relief; court will approve Foley representing Highland in its appeal of Acis confirmation order but fees for Foley in connection with this appeal will be allocated appropriately between Neutra and Highland, and Highland will not pay for Neutras allocated portion of fees. Court added that it is skeptical regarding likely benefits to Highland of the appeal of Acis confirmation order, even assuming success on appeal (in contrast to possible benefits to Neutra and HCLOF) since, among other things, reversal of confirmation order would not reinstate previously rejected contracts or remove the Chapter 11 trustee. Thus, the court will closely evaluate fees requested ultimately for likely benefit to Highland. Order should be submitted.(Edmond, Michael) (Entered: 02/25/2020)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Court heard reports that carryover issues are being resolved.) (Edmond, Michael) (Entered: 02/25/2020)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing.

	<i>Discussion of prior order on sealing motion and court clarified its intent.) (Edmond, Michael) (Entered: 02/25/2020)</i>
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>421</u> Motion for leave (Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof) filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 02/25/2020)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>218</u> Motion for relief from stay MOTION OF PENSIONDANMARK PENSIONSORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Court granted request to carry this matter to the 3/11/20 omnibus hearing.) (Edmond, Michael) (Entered: 02/25/2020)
02/20/2020	<u>464</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From January 1, 2020 through January 31, 2020</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 1/1/2020 to 1/31/2020, Fee: \$898,094.25, Expenses: \$28,854.75. Filed by Debtor Highland Capital Management, L.P. Objections due by 3/12/2020. (Pomerantz, Jeffrey)
02/20/2020	<u>465</u> Application for compensation (<i>First Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from December 10, 2019 through December 31, 2019</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 12/31/2019, Fee: \$18,695.00, Expenses: \$80.60. Filed by Attorney Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A December 2019 Fee Statement) (Annable, Zachery)
02/21/2020	<u>466</u> Notice (<i>Notice of Debtor's Amended Operating Protocols</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>339</u> Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document <u>281</u>) Entered on 1/9/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Amended Operating Protocols # <u>2</u> Exhibit B—Redline of Amended Operating Protocols) (Annable, Zachery)
02/21/2020	<u>467</u> <i>Withdrawal of Limited Objection to Motion of the Debtor for Approval of Settlement with The Official Committee Of Unsecured Creditors regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> filed by Creditor Issuer Group (RE: related document(s) <u>324</u> Objection). (Bain, Joseph)
02/21/2020	<u>468</u> Certificate of service re: Objection to Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel for the Period From December 1, 2019 through December 31, 2019 filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 20</i>). (Chiarello, Annmarie)

02/21/2020	<u>469</u> Certificate of service re: <i>Debtor's Witness and Exhibit List in Connection with its Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>454</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>68</u> Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/21/2020	<u>470</u> Certificate of service re: <i>Notice of Agenda of Matters Scheduled for Hearing on February 19, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>455</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on February 19, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/21/2020	<u>471</u> Certificate of service re: 1) <i>Order Extending Period Within Which the Debtor May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure</i> ; 2) <i>Order Granting Debtors Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(D) and Local Rule 3016-1 Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan</i> ; 3) <i>Order (I) Authorizing Bradley D. Sharp to Act as Foreign Representative Pursuant to 11 U.S.C. § 1505 and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>459</u> Order granting <u>351</u> Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure Entered on 2/19/2020. (Okafor, M.), <u>460</u> Order granting <u>395</u> Debtor's Motion to extend or limit the exclusivity period through and including June 12, 2020 Entered on 2/19/2020. (Okafor, M.), <u>461</u> Order granting motion of the Debtor for Entry of an Order (I) Authorizing Bradley D. Sharp to Act as Foreign Representative Pursuant to 11 U.S.C. Section 1505 and (II) Granting Related Relief (related document <u>67</u>) Entered on 2/19/2020. (Okafor, M.)). (Kass, Albert)
02/23/2020	<u>472</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>420</u> Application for compensation <i>Second Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2019 to 12/31/2019, Fee). (Hoffman, Juliana)
02/24/2020	<u>473</u> Agreed Order granting motion for relief from stay by Creditor Pension Danmark Pensionsforsikringsaktieselskab (related document # <u>218</u>) Entered on 2/24/2020. (Okafor, M.)
02/24/2020	<u>474</u> Motion for authority to apply and disburse funds (<i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G) (Annable, Zachery)
02/24/2020	<u>475</u> Motion for expedited hearing(related documents <u>474</u> Motion for authority to apply and disburse funds) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery)
02/24/2020	<u>476</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
02/25/2020	

	<p><u>477</u> Order granting motion for expedited hearing (Related Doc# <u>475</u>)(document set for hearing: <u>474</u> Motion for authority to apply and disburse funds) Hearing to be held on 3/4/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>474</u>, Entered on 2/25/2020. (Okafor, M.)</p>
02/25/2020	<p><u>478</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>474</u> Motion for authority to apply and disburse funds (<i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G)). Hearing to be held on 3/4/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>474</u>, (Annable, Zachery)</p>
02/26/2020	<p><u>479</u> Transcript regarding Hearing Held 02/19/2020 (188 pgs.) RE: Motions. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/26/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) Hearing held on 2/19/2020. (RE: related document(s)<u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Evidentiary hearing. Court granted in part and denied in part. Foley is approved for representation of Highland in all Acis bankruptcy case and adversary proceeding matters; court does not approve Highland paying Foley for Foleys representation of Neutra in Neutras appeal of Acis involuntary order for relief; court will approve Foley representing Highland in its appeal of Acis confirmation order but fees for Foley in connection with this appeal will be allocated appropriately between Neutra and Highland, and Highland will not pay for Neutras allocated portion of fees. Court added that it is skeptical regarding likely benefits to Highland of the appeal of Acis confirmation order, even assuming success on appeal (in contrast to possible benefits to Neutra and HCLOF) since, among other things, reversal of confirmation order would not reinstate previously rejected contracts or remove the Chapter 11 trustee. Thus, the court will closely evaluate fees requested ultimately for likely benefit to Highland. Order should be submitted., Hearing held on 2/19/2020. (RE: related document(s)<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Court heard reports that carryover issues are being resolved.), Hearing held on 2/19/2020. (RE: related document(s)<u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Discussion of prior order on sealing motion and court clarified its intent.), Hearing held on 2/19/2020. (RE: related document(s)<u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for</p>

	<p><i>Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Motion granted. Counsel to upload order.), Hearing held on 2/19/2020. (RE: related document(s)218 Motion for relief from stay MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Court granted request to carry this matter to the 3/11/20 omnibus hearing.)). Transcript to be made available to the public on 05/26/2020. (Rehling, Kathy)</i></p>
02/26/2020	<p><u>480</u> Certificate of service re: 1) <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from January 1, 2020 Through January 31, 2020</i>; 2) <i>First Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from December 1, 2019 Through December 31, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>464</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From January 1, 2020 through January 31, 2020</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 1/1/2020 to 1/31/2020, Fee: \$898,094.25, Expenses: \$28,854.75. Filed by Debtor Highland Capital Management, L.P. Objections due by 3/12/2020. filed by Debtor Highland Capital Management, L.P., <u>465</u> Application for compensation (<i>First Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from December 10, 2019 through December 31, 2019</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 12/31/2019, Fee: \$18,695.00, Expenses: \$80.60. Filed by Attorney Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A December 2019 Fee Statement)). (Kass, Albert)</p>
02/26/2020	<p><u>481</u> Certificate of service re: <i>Notice of Debtor's Amended Operating Protocols</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>466</u> <i>Notice (Notice of Debtor's Amended Operating Protocols)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>339</u> <i>Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> (related document <u>281</u>) Entered on 1/9/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—Amended Operating Protocols # 2 Exhibit B—Redline of Amended Operating Protocols) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/26/2020	<p><u>482</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>473</u> <i>Agreed Order granting motion for relief from stay by Creditor PensionDanmark Pensionsforsikringsaktieselskab</i> (related document <u>218</u>) Entered on 2/24/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 02/26/2020. (Admin.)</p>
02/27/2020	<p><u>483</u> Application to employ Deloitte Tax LLP as Other Professional (<i>Debtor's Application for Entry of an Order (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider to the Debtor Nunc Pro Tunc to the Petition Date; and (B) Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Crawford Declaration # <u>2</u> Exhibit B—Proposed Order) (Annable, Zachery)</p>
02/28/2020	<p><u>484</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>474</u> <i>Motion for authority to apply and disburse funds (Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause</i></p>

	<i>Distributions to Certain "Related Entities")</i>). (Annable, Zachery)
02/28/2020	<u>485</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 through January 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—OCP Tracking Report) (Annable, Zachery)
03/02/2020	<u>486</u> Response opposed to (related document(s): <u>474</u> Motion for authority to apply and disburse funds (<i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party California Public Employees Retirement System (CalPERS). (Attachments: # <u>1</u> Exhibit A – Purchase and Sale Agreement # <u>2</u> Exhibit B – Assignment and Assumption Agreement) (Shriro, Michelle)
03/02/2020	<u>487</u> Objection to (related document(s): <u>474</u> Motion for authority to apply and disburse funds (<i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
03/02/2020	<u>488</u> Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # <u>421</u>) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
03/02/2020	<u>489</u> Joinder by <i>Acis Capital Management, L.P. and Acis Capital Management GP, LLC to the Committee's Objection to the Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities," and Comment to the Same</i> filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>487</u> Objection). (Enright, Jason)
03/02/2020	<u>490</u> Motion to appear pro hac vice for Louis J. Cisz, III. Fee Amount \$100 Filed by Interested Party California Public Employees Retirement System (CalPERS) (Shriro, Michelle)
03/02/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27511024, amount \$ 100.00 (re: Doc# <u>490</u>). (U.S. Treasury)
03/02/2020	<u>491</u> Certificate of service re: 1) <i>Motion of the Debtor for Entry of an Order Authorizing, But Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ; 2) <i>Debtor's Motion for an Expedited Hearing on the Motion of the Debtor for Entry of an Order Authorizing, But Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>474</u> Motion for authority to apply and disburse funds (<i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G) filed by Debtor Highland Capital Management, L.P., <u>475</u> Motion for expedited hearing(related documents <u>474</u> Motion for authority to apply and disburse funds) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

03/02/2020	<p><u>492</u> Certificate of service re: 1) <i>Order Granting Debtor's Motion for an Expedited Hearing on the Motion of the Debtor for Entry of an Order Authorizing, But Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>; 2) <i>Notice of Hearing on the Motion of the Debtor for Entry of an Order Authorizing, But Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"; to be Held on March 4, 2020 at 1:30 p.m. (Prevailing Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>477</u> Order granting motion for expedited hearing (Related Doc<u>475</u>)(document set for hearing: <u>474</u> Motion for authority to apply and disburse funds) Hearing to be held on 3/4/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>474</u>, Entered on 2/25/2020. (Okafor, M.), <u>478</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>474</u> Motion for authority to apply and disburse funds (<i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>)) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G)). Hearing to be held on 3/4/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>474</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
03/02/2020	<p><u>493</u> Certificate of service re: 1) <i>Witness and Exhibit List for March 4, 2020 Hearing</i>; 2) <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 through January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>484</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>474</u> Motion for authority to apply and disburse funds (<i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>)). filed by Debtor Highland Capital Management, L.P., <u>485</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 through January 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # 1 Exhibit A—OCP Tracking Report) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
03/02/2020	<p><u>494</u> Objection to (related document(s): <u>451</u> Motion for relief from stay Fee amount \$181, filed by Creditor Joshua Terry, Creditor Jennifer G. Terry)(<i>Debtor's Limited Objection to Motion for Relief from the Automatic Stay to Allow Pursuit of State Court Action Against Non-Debtors and Reservation of Rights</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
03/02/2020	<p><u>495</u> Witness and Exhibit List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>487</u> Objection). (Hoffman, Juliana)</p>
03/02/2020	<p><u>496</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s)<u>474</u> Motion for authority to apply and disburse funds (<i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i>)). (Enright, Jason)</p>
03/03/2020	<p><u>497</u> Debtor-in-possession monthly operating report for filing period January 1, 2020 to January 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
03/03/2020	<p><u>498</u> Notice of Bar Date for Filing Claims filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)</p>
03/04/2020	<p><u>499</u> Reply to (related document(s): <u>487</u> Objection filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)</p>

03/04/2020	<u>500</u> Order granting motion to appear pro hac vice adding Louis J. Cisz for California Public Employees Retirement System (CalPERS) (related document # <u>490</u>) Entered on 3/4/2020. (Okafor, M.)
03/04/2020	<u>501</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 1/1/2020 to 1/31/2020, Fee: \$569,091.60, Expenses: \$12,673.30. Filed by Attorney Juliana Hoffman, Creditor Committee Official Committee of Unsecured Creditors Objections due by 3/25/2020. (Hoffman, Juliana)
03/04/2020	Hearing held on 3/4/2020. (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds (Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities") filed by Debtor Highland Capital Management, L.P.) (Appearances (live): J. Pomeranz, G. Demo, M. Hayward, and Z. Annabel for Debtor; M. Clemente, P. Reid, and J. Hoffman for UCC; M. Platt for Redeemer Committee; R. Patel and B. Shaw for ACIS; M. Shriro for CALPERS; A. Anderson for certain Cayman issuers; D.M. Lynn for J. Dondero. Appearances (telephonic): A. Attarwala for UBS; J. Bentley for certain Cayman issuers; E. Cheng for FTI Consulting; L. Cisz for CALPERS; T. Mascherin for Redeemer Committee. Evidentiary hearing. Motion resolved as follows: money owing to related entities will go into the registry of the court with the following exception—Mark Okada may be paid approximately \$2.876 (the \$4.176 million owing to him from the Dynamic Fund will be offset against his \$1.3 million demand note owing to the Debtor). All parties rights are reserved with regard to funds being put in the registry of the court. Debtors counsel should upload order.) (Edmond, Michael) (Entered: 03/05/2020)
03/04/2020	<u>504</u> Court admitted exhibits date of hearing March 4, 2020 (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds (Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities") Filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED EXHIBIT'S #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, & #12) (Edmond, Michael) (Entered: 03/05/2020)
03/05/2020	<u>502</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>442</u> Application for compensation <i>Second Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 12/1/2019 to 12/31/2019, Fee: \$89,215.36, Expenses: \$3,955.12). (Hoffman, Juliana)
03/05/2020	<u>503</u> Request for transcript regarding a hearing held on 3/4/2020. The requested turn-around time is daily (Jeng, Hawaii)
03/06/2020	<u>505</u> Notice of Appearance and Request for Notice by John Y. Bonds III filed by Interested Party James Dondero. (Bonds, John)
03/06/2020	<u>506</u> Notice of Appearance and Request for Notice by Bryan C. Assink filed by Interested Party James Dondero. (Assink, Bryan)
03/06/2020	<u>507</u> Motion to appear pro hac vice for Jeffrey Bjork. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana) Modified to correct attorney name on 3/6/2020 (Ecker, C.).
03/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27531772, amount \$ 100.00 (re: Doc# <u>507</u>). (U.S. Treasury)
03/06/2020	<u>508</u> Witness and Exhibit List filed by Jennifer G. Terry, Joshua Terry (RE: related document(s) <u>451</u> Motion for relief from stay Fee amount \$181.). (Shaw, Brian)

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03/06/2020	<u>509</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>500</u> Order granting motion to appear pro hac vice adding Louis J. Cisz for California Public Employees Retirement System (CalPERS) (related document <u>490</u>) Entered on 3/4/2020. (Okafor, M.) No. of Notices: 1. Notice Date 03/06/2020. (Admin.)
03/10/2020	<u>510</u> Order granting motion to appear pro hac vice adding Jeffrey E. Bjork for UBS AG London Branch and UBS Securities LLC (related document # <u>507</u>) Entered on 3/10/2020. (Okafor, M.)
03/11/2020	<u>511</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C – Proposed Order # 5 2016 Statement # 6 Declaration Frank Waterhouse # 7 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)) Responses due by 3/25/2020. (Ecker, C.)
03/11/2020	<u>512</u> Order authorizing, but not directing, the debtor to cause distributions to certain 'related entities'. (Related Doc # <u>474</u>) Entered on 3/11/2020. (Bradden, T.)
03/11/2020	<u>513</u> Order granting application to employ Foley Gardere, Foley & Lardner LLP as Special Texas Counsel (related document # <u>68</u>) Entered on 3/11/2020. (Bradden, T.)
03/11/2020	<u>514</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)) Responses due by 3/25/2020. (Ecker, C.)
03/11/2020	Hearing held on 3/11/2020. (RE: related document(s) <u>451</u> Motion for relief from stay, filed by Jennifer G. Terry, Joshua Terry.) (Appearances: M. Hayward for Debtor; B Shaw for Movants; J. Hoffman for UCC; M. Platt (and M. Hankin telephonically) for Redeemer Committee; J. Bonds for J. Dondero; A. Anderson for certain Issuers. Evidentiary hearing. Motion granted. Counsel to upload order.)(Edmond, Michael)
03/11/2020	<u>515</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2020 through January 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—DSI January 2020 Staffing Report) (Annable, Zachery)
03/11/2020	<u>516</u> Court admitted exhibits date of hearing March 11, 2020 (RE: related document(s) <u>451</u> Motion for relief from stay, filed by Jennifer G. Terry, Joshua Terry.) (COURT ADMITTED PLAINTIFF EXHIBIT'S #M1, #M2 & #M3). (Edmond, Michael)
03/12/2020	<u>517</u> Application for compensation <i>Third Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2020 to 1/31/2020, Fee: \$411,407.28, Expenses: \$79.00. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/2/2020. (Hoffman, Juliana)
03/12/2020	<u>518</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>510</u> Order granting motion to appear pro hac vice adding Jeffrey E. Bjork for UBS AG London Branch and UBS Securities LLC (related document <u>507</u>) Entered on 3/10/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 03/12/2020. (Admin.)

03/13/2020	<u>519</u> Order granting motion for relief from stay by Jennifer G. Terry , Joshua Terry (related document # <u>451</u>) Entered on 3/13/2020. (Okafor, M.)
03/13/2020	<u>520</u> BNC certificate of mailing. (RE: related document(s) <u>511</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C – Proposed Order # 5 2016 Statement # 6 Declaration Frank Waterhouse # 7 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)) Responses due by 3/25/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 03/13/2020. (Admin.)
03/13/2020	<u>521</u> BNC certificate of mailing. (RE: related document(s) <u>514</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)) Responses due by 3/25/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 03/13/2020. (Admin.)
03/13/2020	<u>522</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>512</u> Order authorizing, but not directing, the debtor to cause distributions to certain 'related entities'. (Related Doc <u>474</u>) Entered on 3/11/2020. (Bradden, T.)) No. of Notices: 1. Notice Date 03/13/2020. (Admin.)
03/13/2020	<u>523</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>513</u> Order granting application to employ Foley Gardere, Foley & Lardner LLP as Special Texas Counsel (related document <u>68</u>) Entered on 3/11/2020. (Bradden, T.)) No. of Notices: 1. Notice Date 03/13/2020. (Admin.)
03/14/2020	<u>524</u> Certificate of service re: <i>Order (I) Establishing Bar Dates for Filing Claims and (II) Approving the Form and Manner of Notice Thereof</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>488</u> Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document <u>421</u>) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)). (Kass, Albert)
03/14/2020	<u>525</u> Certificate of service re: <i>Debtor's Limited Objection to Motion for Relief from the Automatic Stay to Allow Pursuit of State Court Action Against Non-Debtors and Reservation of Rights</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>494</u> Objection to (related document(s): <u>451</u> Motion for relief from stay Fee amount \$181, filed by Creditor Joshua Terry, Creditor Jennifer G. Terry)(<i>Debtor's Limited Objection to Motion for Relief from the Automatic Stay to Allow Pursuit of State Court Action Against Non-Debtors and Reservation of Rights</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/14/2020	<u>526</u> Certificate of service re: <i>Third Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from January 1, 2020 to and Including January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>501</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 1/1/2020 to 1/31/2020, Fee: \$569,091.60, Expenses: \$12,673.30.</i> Filed by Attorney Juliana Hoffman, Creditor Committee Official Committee of Unsecured Creditors Objections due by 3/25/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)

03/16/2020	<u>527</u> Notice of Appearance and Request for Notice by David G. Adams filed by Creditor United States (IRS). (Adams, David)
03/16/2020	<u>528</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>464</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From January 1, 2020 through January 31, 2020</i> for Highland C). (Annable, Zachery)
03/17/2020	<u>529</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>465</u> Application for compensation (<i>First Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from December 10, 2019 through December 31, 2019</i>) for Hayward). (Annable, Zachery)
03/17/2020	<u>530</u> Certificate of service re: <i>Notice of Bar Dates for Filing Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> <i>Notice of Bar Date for Filing Claims</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/17/2020	<u>531</u> Certificate of service re: <i>1) Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain Related Entities; 2) Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date; 3) Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2020 Through January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>512</u> Order authorizing, but not directing, the debtor to cause distributions to certain 'related entities'. (Related Doc <u>474</u>) Entered on 3/11/2020. (Bradden, T.), <u>513</u> Order granting application to employ Foley Gardere, Foley & Lardner LLP as Special Texas Counsel (related document <u>68</u>) Entered on 3/11/2020. (Bradden, T.), <u>515</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2020 through January 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—DSI January 2020 Staffing Report) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/17/2020	<u>532</u> Certificate of service re: <i>Third Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from January 1, 2020 to and Including January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>517</u> Application for compensation <i>Third Monthly Application for Allowance of Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2020 to 1/31/2020, Fee: \$411,407.28, Expenses: \$79.00.</i> Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/2/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
03/18/2020	<u>533</u> Certificate of service re: Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> <i>Notice of Bar Date for Filing Claims</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/18/2020	<u>534</u> Certificate of service re: Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> <i>Notice of Bar Date for Filing Claims</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/19/2020	

	<u>535</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 2/1/2020 to 2/29/2020, Fee: \$941,043.50, Expenses: \$8,092.94. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 4/9/2020. (Pomerantz, Jeffrey)
03/19/2020	<u>536</u> Application for compensation (<i>Second Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 1/1/2020 to 1/31/2020, Fee: \$75315.00, Expenses: \$2919.27. Filed by Attorney Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—January 2020 Invoice) (Annable, Zachery)
03/19/2020	<u>537</u> Notice of Filing of Compensation Report of Development Specialists, Inc. for the Period October 16, 2019 through December 31, 2019 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring—Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Annable, Zachery)
03/20/2020	<u>538</u> Amended application for compensation <i>Amended First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$84,194.00, Expenses: \$4,458.87. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
03/20/2020	<u>539</u> Amended application for compensation <i>Amended Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
03/20/2020	<u>540</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 1/1/2020 to 1/31/2020, Fee: \$88,520.60, Expenses: \$2,180.35. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
03/20/2020	<u>541</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 2/1/2020 to 2/29/2020, Fee: \$86,276.50, Expenses: \$1,994.83. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
03/20/2020	<u>542</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP, Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 2/1/2020 to 2/29/2020, Fee: \$457,155.72, Expenses: \$2,927.21.</i> Filed by Attorney Juliana Hoffman Objections due by 4/10/2020. (Hoffman, Juliana)
03/22/2020	

	<u>543</u> Stipulation by Highland Capital Management, L.P., UBS AG London Branch, UBS Securities LLC and. filed by Debtor Highland Capital Management, L.P., Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>488</u> Order on motion for leave). (Manns, Ryan)
03/23/2020	<u>544</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 2/1/2020 to 2/29/2020, Fee: \$383,371.20, Expenses: \$59.62. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/13/2020. (Hoffman, Juliana)
03/23/2020	<u>545</u> Motion to extend time to file objection (Agreed Motion) (RE: related document(s) <u>483</u> Application to employ) Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
03/23/2020	<u>546</u> Certificate of service re: <i>(Supplemental) Notice of Bar Dates for Filing Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> <i>Notice of Bar Date for Filing Claims</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/25/2020	<u>547</u> Joint Stipulation and Order Extending Bar Date for UBS Securities LLC and UBS AG London Branch (RE: related document(s) <u>543</u> Stipulation filed by Debtor Highland Capital Management, L.P., Interested Party UBS Securities LLC, Interested Party UBS AG London Branch). Entered on 3/25/2020 (Okafor, M.)
03/25/2020	<u>548</u> Agreed Order Extending the Deadline to Object to the Application for Entry of an Order (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider to the Debtor Nunc Pro Tunc to the Petition Date; and (B) Granting Related Relief (Related documents # <u>545</u> Motion to extend and <u>483</u> Application to employ Deloitte Tax LLP) Entered on 3/25/2020. (Okafor, M.)
03/26/2020	<u>549</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>501</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 1/1/2020 to 1/31/2020, Fee: \$569). (Hoffman, Juliana)
03/26/2020	<u>550</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>483</u> Application to employ Deloitte Tax LLP as Other Professional (<i>Debtor's Application for Entry of an Order (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider to the Debtor Nunc Pro Tunc to the Petition Date;</i>). (Annable, Zachery)
03/27/2020	<u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document # <u>483</u>) Entered on 3/27/2020. (Okafor, M.)
03/27/2020	<u>552</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)
03/27/2020	<u>553</u> Certificate of service re: 1) <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from February 1, 2020 Through February 29, 2020</i> ; 2) <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from January 1, 2020 Through January 31, 2020</i> ; and 3) <i>Compensation Report of Development Specialists, Inc. for the Period October 16, 2019 Through December 31, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>535</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski</i>

	<p><i>Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 2/1/2020 to 2/29/2020, Fee: \$941,043.50, Expenses: \$8,092.94. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 4/9/2020. filed by Debtor Highland Capital Management, L.P., <u>536</u> Application for compensation (<i>Second Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 1/1/2020 to 1/31/2020, Fee: \$75315.00, Expenses: \$2919.27. Filed by Attorney Hayward & Associates PLLC (Attachments: # 1 Exhibit A—January 2020 Invoice), <u>537</u> Notice of Filing of Compensation Report of Development Specialists, Inc. for the Period October 16, 2019 through December 31, 2019 filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring—Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i></p>
03/27/2020	<p><u>554</u> Certificate of service re: <i>Documents Served on or Before March 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>538</u> Amended application for compensation <i>Amended First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$84,194.00, Expenses: \$4,458.87. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>539</u> Amended application for compensation <i>Amended Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>540</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 1/1/2020 to 1/31/2020, Fee: \$88,520.60, Expenses: \$2,180.35. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>541</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 2/1/2020 to 2/29/2020, Fee: \$86,276.50, Expenses: \$1,994.83. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>542</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP, Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 2/1/2020 to 2/29/2020, Fee: \$457,155.72, Expenses: \$2,927.21. Filed by Attorney Juliana Hoffman Objections due by 4/10/2020. filed by Creditor Committee Official Committee of Unsecured Creditors).</i> (Kass, Albert)</p>
03/27/2020	<p><u>555</u> Certificate of service re: 1) <i>Fourth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from February 1, 2020 to and Including February 29, 2020;</i> 2) <i>Agreed Motion to Extend Objection Deadline for the Debtor's Application for Entry of an Order (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider to the Debtor Nunc Pro Tunc to the Petition Date; and (B) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>544</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI</p>

	Consulting, Inc., Financial Advisor, Period: 2/1/2020 to 2/29/2020, Fee: \$383,371.20, Expenses: \$59.62. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/13/2020. filed by Financial Advisor FTI Consulting, Inc., <u>545</u> Motion to extend time to file objection (Agreed Motion) (RE: related document(s) <u>483</u> Application to employ) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
03/31/2020	<u>556</u> Order approving stipulation permitting Brown Rudnick LLP to file a proof of claim after general bar date (RE: related document(s) <u>552</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 3/31/2020 (Okafor, M.)
03/31/2020	<u>557</u> Motion to extend time to (Debtor's Emergency Motion for an Order Extending Bar Date Deadline for Employees to File Claims) (RE: related document(s) <u>488</u> Order on motion for leave) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
04/02/2020	<u>558</u> Debtor-in-possession monthly operating report for filing period 02/01/2020 to 02/29/2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
04/02/2020	<u>559</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Bar Dates for Filing Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> <i>Notice of Bar Date for Filing Claims</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/03/2020	<u>560</u> Order granting <u>557</u> Motion Extending Bar Date Deadline for Employees to File Claims. The General Bar Date is hereby extended, solely for the Debtors employees, to file claims that arose against the Debtor prior to the Petition Date through and including May 26, 2020 at 5:00 p.m. Entered on 4/3/2020. (Okafor, M.)
04/03/2020	<u>561</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>517</u> Application for compensation <i>Third Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2020 to 1/31/2020, Fee: \$411,407.28, Expenses: \$79.00.). (Hoffman, Juliana)
04/03/2020	<u>562</u> Notice of hearing(<i>Notice of May 26, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm (Annable, Zachery)
04/03/2020	<u>563</u> Notice of hearing(<i>Notice of June 15, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 6/15/2020 at 01:30 PM Dallas Judge Jernigan Ctrm (Annable, Zachery)
04/03/2020	<u>564</u> Certificate of service re: <i>1) Agreed Order: (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider Nunc Pro Tunc to the Petition Date; and (B) Granting Related Relief; 2) Stipulation by and Between the Debtor and Brown Rudnick LLP Extending the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document <u>483</u>) Entered on 3/27/2020. (Okafor, M.), <u>552</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/03/2020	<u>565</u> Certificate of service re: <i>1) Order Approving Stipulation Permitting Brown Rudnick LLP to File a Proof of Claim After the General Bar Date; 2) Debtor's Emergency Motion for an Order Extending Bar Date Deadline for Employees to File Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>556</u> Order approving stipulation permitting Brown Rudnick LLP to file a proof of claim after general bar date

	(RE: related document(s) <u>552</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 3/31/2020 (Okafor, M.), <u>557</u> Motion to extend time to (Debtor's Emergency Motion for an Order Extending Bar Date Deadline for Employees to File Claims) (RE: related document(s) <u>488</u> Order on motion for leave) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/06/2020	<u>566</u> Declaration re: (<i>First Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). (Annable, Zachery)
04/06/2020	<u>567</u> Notice (<i>Notice of Filing of Monthly Staffing Report By Development Specialists, Inc for the Period from February 1, 2020 through February 29, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Staffing Report) (Annable, Zachery)
04/07/2020	<u>568</u> Notice of hearing(<i>Notice of July 8, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm (Annable, Zachery)
04/07/2020	<u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,154,959.45, Expenses: \$56,254.47. Filed by Objections due by 4/28/2020. (Hoffman, Juliana)
04/07/2020	<u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/28/2020. (Hoffman, Juliana)
04/08/2020	<u>571</u> Transcript regarding Hearing Held 03/04/20 RE: Motion hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 07/7/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber J&J Court Transcribers, Inc., Telephone number 609-586-2311. (RE: related document(s) Hearing held on 3/4/2020. (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds (Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities") filed by Debtor Highland Capital Management, L.P.) (Appearances (live): J. Pomeranz, G. Demo, M. Hayward, and Z. Annabel for Debtor; M. Clemente, P. Reid, and J. Hoffman for UCC; M. Platt for Redeemer Committee; R. Patel and B. Shaw for ACIS; M. Shriro for CALPERS; A. Anderson for certain Cayman issuers; D.M. Lynn for J. Dondero. Appearances (telephonic): A. Attarwala for UBS; J. Bentley for certain Cayman issuers; E. Cheng for FTI Consulting; L. Cisz for CALPERS; T. Mascherin for Redeemer Committee. Evidentiary hearing. Motion resolved as follows: money owing to related entities will go into the registry of the court with the following exception—Mark Okada may be paid approximately \$2.876 (the \$4.176 million owing to him from the Dynamic Fund will be offset against his \$1.3 million demand note owing to the Debtor). All parties rights are reserved with regard to funds being put in the registry of the court. Debtors counsel should upload order.)). Transcript to be made available to the public on 07/7/2020. (Bowen, James)
04/08/2020	

	<u>572</u> Stipulation by Issuer Group and Highland Capital Management, L.P.. filed by Creditor Issuer Group (RE: related document(s) <u>488</u> Order on motion for leave). (Bain, Joseph)
04/09/2020	<u>573</u> Application for compensation (<i>Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 2/1/2020 to 2/29/2020, Fee: \$39,087.50, Expenses: \$2,601.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—February 2020 Fee Statement) (Annable, Zachery)
04/09/2020	<u>574</u> Certificate No Objection Regarding Fifth Monthly Application for Compensation and Reimbursement of Expenses Of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From February 1, 2020 Through February 29, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>535</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> for Jeffrey Nat). (Pomerantz, Jeffrey)
04/10/2020	<u>575</u> Certificate of service re: 1) <i>Order Granting Debtor's Emergency Motion and Extending Bar Date Deadline for Employees to File Claims</i> ; 2) <i>Notice of May 26, 2020 Omnibus Hearing Date; to be Held on May 26, 2020 at 9:30 a.m. (Central Time)</i> ; and 3) <i>Notice of June 15, 2020 Omnibus Hearing Date; to be Held on June 15, 2020 at 1:30 p.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>560</u> Order granting <u>557</u> Motion Extending Bar Date Deadline for Employees to File Claims. The General Bar Date is hereby extended, solely for the Debtors employees, to file claims that arose against the Debtor prior to the Petition Date through and including May 26, 2020 at 5:00 p.m. Entered on 4/3/2020. (Okafor, M.), <u>562</u> Notice of hearing(<i>Notice of May 26, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P., <u>563</u> Notice of hearing(<i>Notice of June 15, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 6/15/2020 at 01:30 PM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/10/2020	<u>576</u> Certificate of service re: 1) <i>First Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date</i> ; and 2) <i>Notice of Filing of Monthly Staffing Report By Development Specialists, Inc for the Period from February 1, 2020 through February 29, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>566</u> Declaration re: (<i>First Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). filed by Debtor Highland Capital Management, L.P., <u>567</u> Notice (<i>Notice of Filing of Monthly Staffing Report By Development Specialists, Inc for the Period from February 1, 2020 through February 29, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—Staffing Report) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/10/2020	<u>577</u> Certificate of service re: 1) <i>Summary Sheet and First Interim Fee Application of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from October 29, 2019</i>

	<p><i>Through and Including February 29, 2020; and 2) Summary Sheet and First Interim Fee Application of FTI Consulting, Inc. as Financial Advisor for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from October 29, 2019 Through and Including February 29, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,154,959.45, Expenses: \$56,254.47. Filed by Objections due by 4/28/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/28/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)</p>
04/10/2020	<p><u>578</u> Certificate of service re: <i>Notice of July 8, 2020 Omnibus Hearing Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>568</u> Notice of hearing(<i>Notice of July 8, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/10/2020	<p><u>579</u> Certificate of service re: <i>Joint Stipulation and [Proposed] Order Extending the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>572</u> Stipulation by Issuer Group and Highland Capital Management, L.P.. filed by Creditor Issuer Group (RE: related document(s)<u>488</u> Order on motion for leave). filed by Creditor Issuer Group). (Kass, Albert)</p>
04/10/2020	<p><u>580</u> Objection to (related document(s): <u>538</u> Amended application for compensation <i>Amended First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>539</u> Amended application for compensation <i>Amended Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>540</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>541</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from February 1, 2020 through February 29, 20</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Chiarello, Annmarie)</p>
04/11/2020	<p><u>581</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>542</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP, Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 2/1/2020 to 2/29/2020, Fee: &#0). (Hoffman, Juliana)</p>
04/13/2020	<p><u>582</u> Motion for relief from stay – agreed Filed by Interested Party Hunton Andrews Kurth LLP (Attachments: # <u>1</u> Proposed Order) (Skolnekovich, Nicole)</p>
04/14/2020	<p><u>583</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>544</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 2/1/2020 to 2/29/2020, Fee: \$383,371.20, Expenses: \$59.62.). (Hoffman, Juliana)</p>

04/14/2020	<u>584</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>536</u> Application for compensation (<i>Second Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i>) for Hayward & Associates). (Annable, Zachery)
04/14/2020	<u>585</u> Notice of Appearance and Request for Notice Filed by Creditor American Express National Bank. (Bharatia, Shraddha)
04/14/2020	<u>586</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$1,222,801.25, Expenses: \$18,747.77. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/5/2020. (Pomerantz, Jeffrey)
04/15/2020	<u>587</u> Certificate of service re: <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>573</u> Application for compensation (<i>Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 2/1/2020 to 2/29/2020, Fee: \$39,087.50, Expenses: \$2,601.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—February 2020 Fee Statement) filed by Other Professional Hayward & Associates PLLC). (Kass, Albert)
04/15/2020	<u>588</u> Certificate of service re: Omnibus Limited Objection to Applications for Compensation and Reimbursement of Expense of Foley Gardere, Foley & Lardner LLP as Special Counsel for the Period From October 16, 2019 Through February 29, 2020 filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>538</u> Amended application for compensation <i>Amended First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November, 539</i> Amended application for compensation <i>Amended Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through, 540</i> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i> <u>541</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from February 1, 2020 through February 29, 20</i>). (Chiarello, Annmarie)
04/15/2020	<u>589</u> Notice of hearing filed by Interested Party Hunton Andrews Kurth LLP (RE: related document(s) <u>582</u> Motion for relief from stay – agreed Filed by Interested Party Hunton Andrews Kurth LLP (Attachments: # 1 Proposed Order)). Hearing to be held on 5/7/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>582</u> , (Skolnekovich, Nicole)
04/15/2020	<u>590</u> Motion to reclaim funds from the registry [<i>Motion for Remittance of Funds Held in Registry of Court</i>] Filed by Creditor CLO Holdco, Ltd. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Proposed Order # <u>11</u> Service List) (Kane, John)
04/17/2020	<u>591</u> Certificate of service re: <i>1) Notice of Bar Dates for Filing Claims; and 2) [Customized] Official Form 410 Proof of Claim</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> Notice of Bar Date for Filing Claims filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management,

	L.P.). (Kass, Albert)
04/17/2020	<u>592</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from March 1, 2020 through March 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—DSI Staffing Report for March 2020) (Annable, Zachery)
04/17/2020	<u>593</u> Motion for relief from stay Fee amount \$181, Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. Objections due by 5/1/2020. (Attachments: # <u>1</u> Exhibit 1 (Draft Motion Show Cause Motion) # <u>2</u> Exhibit 2 (DAF Complaint 1st case) # <u>3</u> Exhibit 3 (DAF Dismissal first case) # <u>4</u> Exhibit 4 (DAF Complaint 2nd case) # <u>5</u> Exhibit 5 (DAF Dismissal 2nd Case) # <u>6</u> Proposed Order) (Shaw, Brian)
04/17/2020	Receipt of filing fee for Motion for relief from stay(19-34054-sg11) [motion,mrlfsty] (181.00). Receipt number 27675692, amount \$ 181.00 (re: Doc# <u>593</u>). (U.S. Treasury)
04/20/2020	<u>594</u> Application for compensation <i>Sidley Austin LLP's Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 3/1/2020 to 3/31/2020, Fee: \$476,836.20, Expenses: \$14,406.39. Filed by Attorney Juliana Hoffman Objections due by 5/11/2020. (Hoffman, Juliana)
04/21/2020	<u>595</u> Certificate of service re: <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>586</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$1,222,801.25, Expenses: \$18,747.77. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/5/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/21/2020	<u>596</u> Certificate of service re: <i>Sidley Austin LLP's Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>594</u> Application for compensation <i>Sidley Austin LLP's Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 3/1/2020 to 3/31/2020, Fee: \$476,836.20, Expenses: \$14,406.39. Filed by Attorney Juliana Hoffman Objections due by 5/11/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
04/21/2020	<u>597</u> Certificate of service re: <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from March 1, 2020 through March 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>592</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from March 1, 2020 through March 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—DSI Staffing Report for March 2020) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/22/2020	

	Receipt Number 00338531, Fee Amount \$3,601,018.59 (RE: Related document(s) <u>512</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd,K) (Entered: 08/10/2020)
04/23/2020	Receipt Number 00338532, Fee Amount \$898,075.53 (RE: related document(s) <u>512</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd, K). (Entered: 08/10/2020)
04/24/2020	<u>598</u> Application for compensation (<i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$35,307.50, Expenses: \$1,732.02. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A March 2020 Invoice) (Annable, Zachery)
04/24/2020	<u>599</u> Notice (<i>Notice of Additional Services to Be Provided by Deloitte Tax LLP</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document <u>483</u>) Entered on 3/27/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Deloitte Tax Engagement Letters) (Annable, Zachery)
04/28/2020	<u>600</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)
04/28/2020	<u>601</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 3/1/2020 to 3/31/2020, Fee: \$82,270.50, Expenses: \$12.70. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
04/28/2020	<u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland)
04/28/2020	<u>603</u> Certificate of service re: 1) <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> ; and 2) <i>Notice of Additional Services to Be Provided by Deloitte Tax LLP</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>598</u> Application for compensation (<i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$35,307.50, Expenses: \$1,732.02. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A March 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <u>599</u> Notice (<i>Notice of Additional Services to Be Provided by Deloitte Tax LLP</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document <u>483</u>) Entered on 3/27/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Deloitte Tax Engagement Letters) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/28/2020	

	<u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Declaration of Alexander McGeoch # <u>2</u> Exhibit B—Proposed Order) (Annable, Zachery)
04/28/2020	<u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Declaration of Timothy Silva # <u>2</u> Exhibit B—Proposed Order) (Annable, Zachery)
04/28/2020	<u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/22/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
04/28/2020	<u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 3/31/2020, Fee: \$4,834,021.00, Expenses: \$118,198.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/19/2020. (Pomerantz, Jeffrey)
04/28/2020	<u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 2/29/2020, Fee: \$113,804.64, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 5/19/2020. (Pomerantz, Jeffrey)
04/28/2020	<u>609</u> Application for compensation (<i>Hayward & Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 3/31/2020, Fee: \$168,405.00, Expenses: \$7,333.29. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A Fee Statements) (Annable, Zachery)
04/28/2020	<u>610</u> Notice of hearing <i>Omnibus Notice of Hearing on First Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,154,959.45, Expenses: \$56,254.47. Filed by Objections due by 4/28/2020., <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/28/2020., <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland), <u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 3/31/2020, Fee: \$4,834,021.00, Expenses: \$118,198.81. Filed by Attorney

	<p>Jeffrey Nathan Pomerantz Objections due by 5/19/2020., <u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 2/29/2020, Fee: \$113,804.64, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 5/19/2020., <u>609</u> Application for compensation (<i>Hayward & Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 3/31/2020, Fee: \$168,405.00, Expenses: \$7,333.29. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A Fee Statements)). Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>569</u> and for <u>607</u> and for <u>609</u> and for <u>570</u> and for <u>602</u> and for <u>608</u>, (Pomerantz, Jeffrey)</p>
04/28/2020	<p><u>611</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Alexander McGeoch # 2 Exhibit B—Proposed Order), <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order), <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>460</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/22/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>605</u> and for <u>604</u> and for <u>606</u>, (Annable, Zachery)</p>
04/28/2020	<p><u>612</u> Certificate of service re: (<i>Supplemental</i>) 1) <i>Notice of Bar Dates for Filing Claims; and 2) [Customized] Official Form 410 Proof of Claim</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>498</u> <i>Notice of Bar Date for Filing Claims</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/29/2020	<p><u>613</u> Clerk's correspondence requesting a notice of hearing from attorney for debtor. (RE: related document(s)<u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 2/14/2020. (O'Neil, Holland)) Responses due by 5/13/2020. (Ecker, C.)</p>
04/29/2020	<p><u>614</u> Order approving second stipulation permitting Brown Rudnick LLP to file proof of claims after the general bar date (RE: related document(s)<u>600</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 4/29/2020 (Okafor, M.)</p>
04/29/2020	<p><u>615</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease (RE: related document(s)<u>429</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
04/30/2020	<p><u>616</u> Agreed Order extending deadline to assume or reject unexpired nonresidential real property lease by sixty days (RE: <u>615</u> Motion to extend time.) Entered on 4/30/2020. (Okafor, M.)</p>
05/01/2020	

	<p><u>617</u> Response unopposed to (related document(s): <u>593</u> Motion for relief from stay Fee amount \$181, filed by Creditor Acis Capital Management GP, LLC, Creditor Acis Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)</p>
05/05/2020	<p><u>618</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to March 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)</p>
05/05/2020	<p><u>619</u> Certificate of service re: <i>Documents Served on April 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>600</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P., <u>601</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 3/1/2020 to 3/31/2020, Fee: \$82,270.50, Expenses: \$12.70. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>603</u> Certificate of service re: 1) <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020; and 2) Notice of Additional Services to Be Provided by Deloitte Tax LLP</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>598</u> Application for compensation (<i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$35,307.50, Expenses: \$1,732.02. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A March 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <u>599</u> Notice (<i>Notice of Additional Services to Be Provided by Deloitte Tax LLP</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document <u>483</u>) Entered on 3/27/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—Deloitte Tax Engagement Letters) filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC, <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Alexander McGeoch # 2 Exhibit B—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>606</u> Motion to</p>

extend or limit the exclusivity period (RE: related document(s)460 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/22/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., 607 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 2020* for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 3/31/2020, Fee: \$4,834,021.00, Expenses: \$118,198.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/19/2020. filed by Debtor Highland Capital Management, L.P., 608 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020* for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 2/29/2020, Fee: \$113,804.64, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 5/19/2020. filed by Consultant Mercer (US) Inc., 609 Application for compensation (*Hayward & Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020*) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 3/31/2020, Fee: \$168,405.00, Expenses: \$7,333.29. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A Fee Statements) filed by Other Professional Hayward & Associates PLLC, 610 Notice of hearing *Omnibus Notice of Hearing on First Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals* filed by Debtor Highland Capital Management, L.P. (RE: related document(s)569 Application for compensation *Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses* for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,154,959.45, Expenses: \$56,254.47. Filed by Objections due by 4/28/2020., 570 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses* for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/28/2020., 602 Application for compensation *First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020* for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland), 607 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 2020* for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 3/31/2020, Fee: \$4,834,021.00, Expenses: \$118,198.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/19/2020., 608 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020* for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 2/29/2020, Fee: \$113,804.64, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 5/19/2020., 609 Application for compensation (*Hayward & Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020*) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 3/31/2020, Fee: \$168,405.00, Expenses: \$7,333.29. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A Fee Statements)). Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for 569 and for 607 and for 609 and for 570 and for 602 and for 608, filed by Debtor Highland Capital Management, L.P., 611 Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)604 Application to employ Hunton Andrews Kurth LLP as Special Counsel (*Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date*) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Alexander McGeoch # 2 Exhibit B—Proposed Order), 605 Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (*Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules*

	<p><i>2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order), <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>460</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/22/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>605</u> and for <u>604</u> and for <u>606</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
05/05/2020	<p><u>620</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>488</u> Order on motion for leave). (Attachments: # <u>1</u> Exhibit A—Employee Letter) (Annable, Zachery)</p>
05/05/2020	<p><u>621</u> Certificate of No Objection Regarding Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020 filed by Other Professional Hayward & Associates PLLC (RE: related document(s)<u>573</u> Application for compensation (<i>Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i>) for Hayward &). (Annable, Zachery)</p>
05/05/2020	<p><u>622</u> Certificate No Objection Regarding Sixth Monthly Application for Compensation and Reimbursement of Expenses Of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>586</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020</i> for Jeffrey Nathan Po). (Pomerantz, Jeffrey)</p>
05/06/2020	<p><u>623</u> Stipulation and Agreed Order Permitting Hunton Andrews Kurth LLP to Apply Prepetition Retainer (related document # <u>582</u>) Entered on 5/6/2020. (Okafor, M.)</p>
05/06/2020	<p><u>624</u> Objection to (related document(s): <u>590</u> Motion to reclaim funds from the registry[<i>Motion for Remittance of Funds Held in Registry of Court</i>] filed by Creditor CLO Holdco, Ltd.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)</p>
05/06/2020	<p><u>625</u> Certificate of service re: Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>624</u> Objection). (Hoffman, Juliana)</p>
05/06/2020	<p><u>626</u> Certificate of service re: 1) <i>Order Approving Second Stipulation Permitting Brown Rudnick LLP to File Proofs of Claim after the General Bar Date; and 2) Agreed Motion to Extend by Sixty Days the Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>614</u> Order approving second stipulation permitting Brown Rudnick LLP to file proof of claims after the general bar date (RE: related document(s)<u>600</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 4/29/2020 (Okafor, M.), <u>615</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease (RE: related document(s)<u>429</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
05/06/2020	<p><u>627</u> Certificate of service re: <i>Agreed Order Extending Deadline to Assume or Reject Unexpired Nonresidential Property Lease by Sixty Days</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>616</u> Agreed Order extending deadline to assume or reject unexpired nonresidential real property lease by sixty days (RE: <u>615</u> Motion to extend time.) Entered on 4/30/2020. (Okafor, M.)). (Kass, Albert)</p>

05/08/2020	<u>628</u> Order approving joint stipulation of the Debtor and the Official Committee of the Unsecured Creditors modifying the Bar Date Order (RE: related document(s) <u>620</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 5/8/2020 (Okafor, M.)
05/12/2020	<u>629</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>594</u> Application for compensation <i>Sidley Austin LLP's Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 3/31/2020, Fee: \$476.). (Hoffman, Juliana)
05/13/2020	<u>630</u> Reply to (related document(s): <u>624</u> Objection filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Creditor CLO Holdco, Ltd.. (Attachments: # <u>1</u> Service List) (Kane, John)
05/13/2020	<u>631</u> Certificate of service re: 1) <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to March 31, 2020</i> ; and 2) <i>Joint Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors Modifying the Bar Date Order</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>618</u> <i>Notice (Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to March 31, 2020)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>620</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Attachments: # 1 Exhibit A—Employee Letter) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/13/2020	<u>632</u> Certificate of service re: <i>Stipulation and Agreed Order Permitting Hunton Andrew Kurth LLP to Apply Prepetition Retainer</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>623</u> <i>Stipulation and Agreed Order Permitting Hunton Andrews Kurth LLP to Apply Prepetition Retainer</i> (related document <u>582</u>) Entered on 5/6/2020. (Okafor, M.) filed by Interested Party Hunton Andrews Kurth LLP). (Kass, Albert)
05/13/2020	<u>633</u> Certificate of service re: <i>Order Approving Joint Stipulation of the Debtor and the Official Committee of Unsecured Creditors Modifying Bar Date Order</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>628</u> Order approving joint stipulation of the Debtor and the Official Committee of the Unsecured Creditors modifying the Bar Date Order (RE: related document(s) <u>620</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 5/8/2020 (Okafor, M.)). (Kass, Albert)
05/14/2020	<u>634</u> Debtor-in-possession monthly operating report for filing period March 1, 2020 to March 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/15/2020	<u>635</u> Notice of hearing filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>590</u> <i>Motion to reclaim funds from the registry[Motion for Remittance of Funds Held in Registry of Court]</i> Filed by Creditor CLO Holdco, Ltd. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Proposed Order # 11 Service List)). Hearing to be held on 6/30/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>590</u> , (Attachments: # <u>1</u> Service List) (Kane, John)
05/19/2020	

	<u>636</u> Notice of Appearance and Request for Notice by Martin A. Sosland filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
05/19/2020	<u>637</u> Notice of Appearance and Request for Notice by Candice Marie Carson filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Carson, Candice)
05/19/2020	<u>638</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)
05/19/2020	<u>639</u> Application for compensation <i>Sixth Monthly Application of Sidley Austin LLP for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2020 to 4/30/2020, Fee: \$438,619.32, Expenses: \$5,765.07. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 6/9/2020. (Hoffman, Juliana)
05/19/2020	<u>640</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 3/31/2020, Fee: \$477,538.20, Expenses: \$14,937.66. Filed by Attorney Juliana Hoffman Objections due by 6/9/2020. (Hoffman, Juliana)
05/19/2020	<u>641</u> Objection to (related document(s): <u>601</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> for Foley Gardere, filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Ga filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Chiarello, Annmarie)
05/20/2020	<u>642</u> Trustee's Objection to <i>Foley & Lardner, LLP's First Interim Application for Fees and Expenses</i> (RE: related document(s) <u>602</u> Application for compensation) (Lambert, Lisa)
05/20/2020	<u>643</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>598</u> Application for compensation (<i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i>) for Hayward & Asso). (Annable, Zachery)
05/20/2020	<u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181, Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 6/3/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K) (Sosland, Martin)
05/20/2020	<u>645</u> Notice of hearing filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181, Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 6/3/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K)). Hearing to be held on 6/15/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>644</u> , (Sosland, Martin)
05/20/2020	Receipt of filing fee for Motion for relief from stay(19-34054-sg11) [motion,mrlfsty] (181.00). Receipt number 27774088, amount \$ 181.00 (re: Doc# <u>644</u>). (U.S. Treasury)

05/20/2020	<u>646</u> Order approving third stipulation permitting Brown Rudnick LLP to file proof of claims after the general bar date (RE: related document(s) <u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 5/20/2020 (Okafor, M.)
05/20/2020	<u>647</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>601</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> for Foley Gardere,, <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Ga). (Attachments: # <u>1</u> Exhibit 9 # <u>2</u> Exhibit 10 # <u>3</u> Exhibit 11 # <u>4</u> Exhibit 12 # <u>5</u> Exhibit 13 # <u>6</u> Exhibit 14 # <u>7</u> Exhibit 15 # <u>8</u> Exhibit 16 # <u>9</u> Exhibit 17 # <u>10</u> Exhibit 18 # <u>11</u> Exhibit 19 # <u>12</u> Exhibit 20 # <u>13</u> Exhibit 21 # <u>14</u> Exhibit 22 # <u>15</u> Exhibit 23 # <u>16</u> Exhibit 24 # <u>17</u> Exhibit 25) (Chiarello, Annmarie)
05/21/2020	<u>648</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtors for the Period From April 1, 2020 Through April 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 4/30/2020, Fee: \$1,113,522.50, Expenses: \$3,437.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 6/11/2020. (Pomerantz, Jeffrey)
05/22/2020	<u>649</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 20</i>). (Annable, Zachery)
05/22/2020	<u>650</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020</i> for Mercer (). (Annable, Zachery)
05/22/2020	<u>651</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,</i>). (Hoffman, Juliana)
05/22/2020	<u>652</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09</i>). (Hoffman, Juliana)
05/22/2020	<u>653</u> Declaration re: (<i>Second Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). (Annable, Zachery)
05/22/2020	<u>654</u> Witness and Exhibit List for <i>May 26, 2020 Hearing</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to</i>

	<p>2/29/2020, Fee: \$3,, <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09., <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Ga, <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>), <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment</i>, <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>460</u> Order on motion to extend/shorten time), <u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 20</i>, <u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020 for Mercer</i> (, <u>609</u> Application for compensation (<i>Hayward & Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i>) for Hayward & Associates PLLC, Debtor's At). (Annable, Zachery)</p>
05/22/2020	<u>655</u> COURT'S NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON MAY 26, 2020 AT 9:30 a.m. (Ellison, T.)
05/22/2020	<u>656</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>609</u> Application for compensation (<i>Hayward & Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i>) for Hayward & Associates PLLC, Debtor's At). (Annable, Zachery)
05/22/2020	<u>657</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time)). (Annable, Zachery)
05/22/2020	<u>658</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/23/2020	<u>659</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment</i>). (Annable, Zachery)
05/25/2020	<u>660</u> Amended Notice (<i>Amended Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>658</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P..). (Annable, Zachery)
05/26/2020	<u>661</u> Order granting application for compensation (related document # <u>569</u>) granting for Sidley Austin, attorney for Official Committee of Unsecured Creditors, fees awarded: \$3,154,959.45, expenses awarded: \$56,254.47 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>662</u> Order granting application for compensation (related document # <u>570</u>) granting for FTI Consulting, Inc., fees awarded: \$1,757,835.90, expenses awarded: \$8,781.09 Entered

	on 5/26/2020. (Ecker, C.)
05/26/2020	<u>663</u> Order granting application for compensation (related document # <u>607</u>) granting for Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, fees awarded: \$4,834,021.00, expenses awarded: \$118,198.81 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>664</u> Order granting application for compensation (related document # <u>608</u>) granting for Mercer (US) Inc., fees awarded: \$113,804.64, expenses awarded: \$2,151.69 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>665</u> Amended Order granting application for compensation (related document # <u>570</u>) granting for FTI Consulting, Inc., fees awarded: \$1,757,835.90, expenses awarded: \$8,781.09 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>666</u> Amended Order granting application for compensation (related document # <u>569</u>) granting for Sidley Austin, attorney for Official Committee of Unsecured Creditors, fees awarded: \$3,154,959.45, expenses awarded: \$56,254.47 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>667</u> Order granting application for compensation (related document # <u>609</u>) granting for Hayward & Associates PLLC, fees awarded: \$168,405.00, expenses awarded: \$7,333.29 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>668</u> Order granting <u>606</u> Motion to extend or limit the exclusivity period. (Re: related document(s) Chapter 11 Plan due by 7/13/2020, Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>669</u> Order granting application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Other Professional (related document # <u>605</u>) Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>670</u> Order granting application for compensation (related document # <u>602</u>) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$387,672.08, expenses awarded: \$10,455.04 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>672</u> Hearing held on 5/26/2020. (RE: related document(s) <u>602</u> First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020 for Foley Gardere, Foley & Lardner LLP, Special Counsel,) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Agreed resolution accepted; 80% of fees and 100% of expenses allowed on an interim basis with all rights of all parties reserved. Counsel to upload order.) (Edmond, Michael) (Entered: 05/27/2020)
05/26/2020	<u>673</u> Hearing held on 5/26/2020. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date), filed by Debtor Highland Capital Management, L.P.) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Application granted. Counsel to upload order.) (Edmond, Michael) (Entered: 05/27/2020)
05/26/2020	<u>674</u> Hearing held on 5/26/2020. (RE: related document(s) <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time)

	filed by Debtor Highland Capital Management, L.P.) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Agreed resolution accepted; 30 day extension. Counsel to upload order. (Edmond, Michael) (Entered: 05/27/2020)
05/27/2020	<u>671</u> Request for transcript (ruling only) regarding a hearing held on 5/26/2020. The requested turn-around time is daily (Jeng, Hawaii)
05/28/2020	<u>675</u> Application for compensation <i>Sixth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2020 to 4/30/2020, Fee: \$489,957.84, Expenses: \$6,702.95. Filed by Attorney Juliana Hoffman Objections due by 6/18/2020. (Hoffman, Juliana)
05/28/2020	<u>676</u> Transcript regarding Hearing Held 05/26/2020 (7 pgs.) RE: Fee Applications, Applications to Employ Nunc Pro Tunc, Motion to Extend Exclusivity Period (Excerpt: 10:00–10:06 a.m. Only). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/26/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972–786–3063. (RE: related document(s) <u>672</u> Hearing held on 5/26/2020. (RE: related document(s) <u>602</u> First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020 for Foley Gardere, Foley & Lardner LLP, Special Counsel,) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Agreed resolution accepted; 80% of fees and 100% of expenses allowed on an interim basis with all rights of all parties reserved. Counsel to upload order.), <u>673</u> Hearing held on 5/26/2020. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date), filed by Debtor Highland Capital Management, L.P.) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Application granted. Counsel to upload order.), <u>674</u> Hearing held on 5/26/2020. (RE: related document(s) <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Agreed resolution accepted; 30 day extension. Counsel to upload order.). Transcript to be made available to the public on 08/26/2020. (Rehling, Kathy)
05/28/2020	<u>677</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>663</u> Order granting application for compensation (related document <u>607</u>) granting for Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, fees awarded: \$4,834,021.00, expenses awarded: \$118,198.81 Entered on 5/26/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 05/28/2020. (Admin.)
06/01/2020	<u>678</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion

	for leave). (Annable, Zachery)
06/01/2020	<u>679</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2020 through April 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—DSI Staffing Report for April 2020) (Annable, Zachery)
06/01/2020	<u>680</u> Certificate of service re: 1) <i>Third Stipulation by and Between the Debtor and Brown Rudnick LLP Extending the General Bar Date</i> ; 2) <i>Summary Sheet and Sixth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from April 1, 2020 to and Including April 30, 2020</i> ; and 3) <i>Summary Sheet and Fifth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from March 1, 2020 to and Including March 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>638</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P., <u>639</u> Application for compensation <i>Sixth Monthly Application of Sidley Austin LLP for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2020 to 4/30/2020, Fee: \$438,619.32, Expenses: \$5,765.07. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 6/9/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>640</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 3/31/2020, Fee: \$477,538.20, Expenses: \$14,937.66. Filed by Attorney Juliana Hoffman Objections due by 6/9/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
06/01/2020	<u>681</u> Certificate of service re: 1) <i>Webex Meeting Invitation to participate electronically in the hearing on Tuesday, May 26, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan</i> ; and 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing [Attached hereto as Exhibit B]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>658</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>660</u> Amended Notice (<i>Amended Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>658</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P..). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/01/2020	<u>682</u> Certificate of service re: <i>Cover Sheet and Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from April 1, 2020 Through April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>648</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtors for the Period From April 1, 2020 Through April 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 4/30/2020, Fee: \$1,113,522.50, Expenses: \$3,437.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 6/11/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/01/2020	<u>683</u> Certificate of service re: <i>Documents Served on May 22, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>653</u> Declaration re: (<i>Second Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to</i>

	<p><i>Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). filed by Debtor Highland Capital Management, L.P., <u>654</u> Witness and Exhibit List for May 26, 2020 <i>Hearing</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3., <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09., <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Ga, <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>), <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment</i>, <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>460</u> Order on motion to extend/shorten time), <u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 20, 608</i> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020 for Mercer</i> (, <u>609</u> Application for compensation (<i>Hayward & Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i>) for Hayward & Associates PLLC, Debtor's At). filed by Debtor Highland Capital Management, L.P., <u>655</u> COURT'S NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON MAY 26, 2020 AT 9:30 a.m. (Ellison, T.), <u>658</u> Notice (Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/02/2020	<p><u>684</u> Clerk's correspondence requesting a notice of hearing from attorney for creditor. (RE: related document(s)<u>593</u> Motion for relief from stay Fee amount \$181, Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. Objections due by 5/1/2020. (Attachments: # 1 Exhibit 1 (Draft Motion Show Cause Motion) # 2 Exhibit 2 (DAF Complaint 1st case) # 3 Exhibit 3 (DAF Dismissal first case) # 4 Exhibit 4 (DAF Complaint 2nd case) # 5 Exhibit 5 (DAF Dismissal 2nd Case) # 6 Proposed Order)) Responses due by 6/9/2020. (Ecker, C.)</p>
06/02/2020	<p><u>685</u> Order approving fourth stipulation permitting Brown Rudnick LLP to file proof of claims after general bar date (RE: related document(s)<u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 6/2/2020 (Okafor, M.)</p>
06/02/2020	<p><u>686</u> Debtor-in-possession monthly operating report for filing period April 1, 2020 to April 30, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
06/03/2020	<p><u>687</u> Response opposed to (related document(s): <u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
06/03/2020	<p><u>688</u> Support/supplemental document(<i>Appendix A of Exhibits in Support of Debtor's Objection to UBS's Motion for Relief from the Automatic Stay</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>687</u> Response). (Attachments: # 1</p>

	<p>Exhibit 1—UBS v. Highland Capital Mgmt., L.P., 2010 NY Slip Op 1436 (N.Y. App. Div.) # <u>2</u> Exhibit 2—UBS v. Highland Capital Mgmt., L.P., 86 A.D.3d 469 (N.Y. App. Div. 2011) # <u>3</u> Exhibit 3—UBS v. Highland Capital Mgmt., L.P., 93 A.D.3d 489 (N.Y. App. Div. 2012) # <u>4</u> Exhibit 4—NY D.I. 411: March 13, 2017 Decision # <u>5</u> Exhibit 5—NY D.I. 494: Transcript of May 1, 2018 Telephonic Hearing # <u>6</u> Exhibit 6—NY D.I. 472: UBSs Pre-Trial Brief in Support of Bifurcation # <u>7</u> Exhibit 7—Shira A. Scheindlin, U.S.D.J. (Ret.), Why Not Arbitrate? Breaking the Backlog in State and Federal Courts, 263 N.Y. L.J. 94 (May 15, 2020) # <u>8</u> Exhibit 8—December 2, 2019 Email from the Debtors Pre-Petition Counsel to Counsel for UBS # <u>9</u> Exhibit 9—March 6, 2020 Email Chain Between the Debtors Bankruptcy Counsel and Counsel for UBS # <u>10</u> Exhibit 10—NY D.I. 320: UBSs Note of Issue Without Jury # <u>11</u> Exhibit 11—March 22, 2020 New York Administrative Order AO/78/20 # <u>12</u> Exhibit 12—May 26, 2020 Law360 Article (Excerpt Only) (Annable, Zachery)</p>
06/03/2020	<p><u>689</u> Motion to file document under seal.(<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal of Appendix B of Exhibits to Debtor's Objection to UBS's Motion for Relief from the Automatic Stay</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B—Protective Order Filed in State Court Litigation) (Annable, Zachery)</p>
06/03/2020	<p><u>690</u> Objection to (related document(s): <u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)</p>
06/03/2020	<p><u>691</u> Motion to file document under seal.<i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEE OBJECTION TO UBS MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED WITH STATE COURT ACTION</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit Exhibit A # <u>2</u> Exhibit Exhibit B # <u>3</u> Exhibit Exhibit C # <u>4</u> Proposed Order) (Platt, Mark)</p>
06/03/2020	<p><u>692</u> Objection to (related document(s): <u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch)<i>Redacted Version (Pending Ruling on Motion to Seal at D.I. 691) of Redeemer Committee Objection to UBS Motion for Relief from the Automatic Stay to Proceed with State Court Action</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit Exhibit A (slip sheet, pending ruling on motion to seal) # <u>2</u> Exhibit Exhibit B slip sheet (pending ruling on motion to seal) # <u>3</u> Exhibit Exhibit C slip sheet (pending ruling on motion to seal) # <u>4</u> Exhibit Exhibit D slip sheet (pending ruling on motion to seal) # <u>5</u> Exhibit Exhibit E # <u>6</u> Exhibit Exhibit F # <u>7</u> Exhibit Exhibit G # <u>8</u> Exhibit Exhibit H slip sheet (pending ruling on motion to seal) # <u>9</u> Exhibit Exhibit I slip sheet (pending ruling on motion to seal) # <u>10</u> Exhibit Exhibit J # <u>11</u> Exhibit Exhibit L # <u>12</u> Exhibit Exhibit M # <u>13</u> Exhibit Exhibit N) (Platt, Mark)</p>
06/03/2020	<p><u>693</u> Support/supplemental document<i>Exhibit K</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)<u>692</u> Objection). (Platt, Mark)</p>
06/03/2020	<p><u>694</u> Joinder by filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s)<u>692</u> Objection). (Shaw, Brian)</p>
06/04/2020	<p><u>695</u> Motion to appear pro hac vice for Robert J. Feinstein. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
06/04/2020	<p>Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27814231, amount \$ 100.00 (re: Doc# <u>695</u>). (U.S. Treasury)</p>

06/04/2020	<u>696</u> Amended Motion to file document under seal.AMENDED MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEE OBJECTION TO UBS MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED WITH STATE COURT ACTION Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit Exhibit A # <u>2</u> Exhibit Exhibit B # <u>3</u> Exhibit Exhibit C # <u>4</u> Proposed Order) (Platt, Mark)
06/04/2020	<u>697</u> Certificate of service re: <i>Amended Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>660</u> Amended Notice (<i>Amended Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>658</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P..) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/04/2020	<u>698</u> Certificate of service re: <i>Documents Served on May 26, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>661</u> Order granting application for compensation (related document <u>569</u>) granting for Sidley Austin, attorney for Official Committee of Unsecured Creditors, fees awarded: \$3,154,959.45, expenses awarded: \$56,254.47 Entered on 5/26/2020. (Ecker, C.), <u>662</u> Order granting application for compensation (related document <u>570</u>) granting for FTI Consulting, Inc., fees awarded: \$1,757,835.90, expenses awarded: \$8,781.09 Entered on 5/26/2020. (Ecker, C.), <u>663</u> Order granting application for compensation (related document <u>607</u>) granting for Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, fees awarded: \$4,834,021.00, expenses awarded: \$118,198.81 Entered on 5/26/2020. (Ecker, C.), <u>664</u> Order granting application for compensation (related document <u>608</u>) granting for Mercer (US) Inc., fees awarded: \$113,804.64, expenses awarded: \$2,151.69 Entered on 5/26/2020. (Ecker, C.), <u>665</u> Amended Order granting application for compensation (related document <u>570</u>) granting for FTI Consulting, Inc., fees awarded: \$1,757,835.90, expenses awarded: \$8,781.09 Entered on 5/26/2020. (Ecker, C.), <u>666</u> Amended Order granting application for compensation (related document <u>569</u>) granting for Sidley Austin, attorney for Official Committee of Unsecured Creditors, fees awarded: \$3,154,959.45, expenses awarded: \$56,254.47 Entered on 5/26/2020. (Ecker, C.), <u>667</u> Order granting application for compensation (related document <u>609</u>) granting for Hayward & Associates PLLC, fees awarded: \$168,405.00, expenses awarded: \$7,333.29 Entered on 5/26/2020. (Ecker, C.), <u>668</u> Order granting <u>606</u> Motion to extend or limit the exclusivity period. (Re: related document(s) Chapter 11 Plan due by 7/13/2020, Entered on 5/26/2020. (Ecker, C.), <u>669</u> Order granting application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Other Professional (related document <u>605</u>) Entered on 5/26/2020. (Ecker, C.), <u>670</u> Order granting application for compensation (related document <u>602</u>) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$387,672.08, expenses awarded: \$10,455.04 Entered on 5/26/2020. (Ecker, C.)). (Kass, Albert)
06/04/2020	<u>699</u> Certificate of service re: <i>Summary Sheet and Sixth Monthly Application of FTI Consulting for Allowance of Compensation and Reimbursement of Expenses for the Period from April 1, 2020 to and Including April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>675</u> Application for compensation <i>Sixth Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2020 to 4/30/2020, Fee: \$489,957.84, Expenses: \$6,702.95.</i> Filed by Attorney Juliana Hoffman Objections due by 6/18/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
06/04/2020	<u>700</u> Motion to redact/restrict Restrict From Public View (related document(s): <u>692</u>) (Fee Amount \$25) Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Proposed Order) (Platt, Mark)
06/04/2020	Receipt of filing fee for Motion to Redact/Restrict From Public View(19-34054-sgj11) [motion,mredact] (25.00). Receipt number 27815698, amount \$ 25.00 (re: Doc# <u>700</u>). (U.S. Treasury)

06/04/2020	<u>701</u> Objection to (related document(s): <u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch)Redacted Version of Redeemer Committee Objection to UBS Motion for Relief from the Automatic Stay to Proceed with State Court Action filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit Exhibit A # <u>2</u> Exhibit Exhibit B # <u>3</u> Exhibit Exhibit C # <u>4</u> Exhibit Exhibit D # <u>5</u> Exhibit Exhibit E # <u>6</u> Exhibit Exhibit F # <u>7</u> Exhibit Exhibit G # <u>8</u> Exhibit Exhibit H slip sheet # <u>9</u> Exhibit Exhibit I slip sheet # <u>10</u> Exhibit Exhibit J # <u>11</u> Exhibit Exhibit K # <u>12</u> Exhibit Exhibit L # <u>13</u> Exhibit Exhibit M # <u>14</u> Exhibit Exhibit N) (Platt, Mark)
06/04/2020	<u>702</u> Notice of Appearance and Request for Notice by Thomas M. Melsheimer filed by Creditor Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent. (Melsheimer, Thomas)
06/04/2020	<u>703</u> Motion to appear pro hac vice for David Neier. Fee Amount \$100 Filed by Creditor Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent (Melsheimer, Thomas)
06/04/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27816362, amount \$ 100.00 (re: Doc# <u>703</u>). (U.S. Treasury)
06/05/2020	<u>704</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to April 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
06/05/2020	<u>705</u> Order granting motion to appear pro hac vice adding David Neier for Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent (related document # <u>703</u>) Entered on 6/5/2020. (Okafor, M.)
06/05/2020	<u>706</u> Order granting motion to appear pro hac vice adding Robert J. Feinstein for Highland Capital Management, L.P. (related document # <u>695</u>) Entered on 6/5/2020. (Okafor, M.)
06/05/2020	<u>707</u> Certificate of service re: 1) <i>Fourth Stipulation by and Between the Debtor and Brown Rudnick LLP Extending the General Bar Date</i> ; and 2) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2020 Through April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>678</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P., <u>679</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2020 through April 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—DSI Staffing Report for April 2020) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/05/2020	<u>708</u> Certificate of service re: <i>Order Approving Fourth Stipulation Permitting Brown Rudnick LLP to File Proofs of Claim After the General Bar Date</i> Filed by Claims Agent

	Kurtzman Carson Consultants LLC (related document(s) 685 Order approving fourth stipulation permitting Brown Rudnick LLP to file proof of claims after general bar date (RE: related document(s) 638 Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 6/2/2020 (Okafor, M.)). (Kass, Albert)
06/05/2020	709 Certificate of service re: 1) Debtor's Objection to UBS's Motion for Relief from the Automatic Stay to Proceed with State Court Action; 2) Appendix A of Exhibits in Support of Debtor's Objection to UBS's Motion for Relief from the Automatic Stay; and 3) Debtor's Motion for Entry of an Order Authorizing Filing Under Seal of Appendix B of Exhibits to Debtor's Objection to UBS's Motion for Relief from the Automatic Stay Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 687 Response opposed to (related document(s): 644 Motion for relief from stay (UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., 688 Support/supplemental document(Appendix A of Exhibits in Support of Debtor's Objection to UBS's Motion for Relief from the Automatic Stay) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 687 Response). (Attachments: # 1 Exhibit 1—UBS v. Highland Capital Mgmt., L.P., 2010 NY Slip Op 1436 (N.Y. App. Div.) # 2 Exhibit 2—UBS v. Highland Capital Mgmt., L.P., 86 A.D.3d 469 (N.Y. App. Div. 2011) # 3 Exhibit 3—UBS v. Highland Capital Mgmt., L.P., 93 A.D.3d 489 (N.Y. App. Div. 2012) # 4 Exhibit 4—NY D.I. 411: March 13, 2017 Decision # 5 Exhibit 5—NY D.I. 494: Transcript of May 1, 2018 Telephonic Hearing # 6 Exhibit 6—NY D.I. 472: UBSs Pre-Trial Brief in Support of Bifurcation # 7 Exhibit 7—Shira A. Scheindlin, U.S.D.J. (Ret.), Why Not Arbitrate? Breaking the Backlog in State and Federal Courts, 263 N.Y. L.J. 94 (May 15, 2020) # 8 Exhibit 8—December 2, 2019 Email from the Debtors Pre-Petition Counsel to Counsel for UBS # 9 Exhibit 9—March 6, 2020 Email Chain Between the Debtors Bankruptcy Counsel and Counsel for UBS # 10 Exhibit 10—NY D.I. 320: UBSs Note of Issue Without Jury # 11 Exhibit 11—March 22, 2020 New York Administrative Order AO/78/20 # 12 Exhibit 12—May 26, 2020 Law360 Article (Excerpt Only) filed by Debtor Highland Capital Management, L.P., 689 Motion to file document under seal.(Debtor's Motion for Entry of an Order Authorizing Filing under Seal of Appendix B of Exhibits to Debtor's Objection to UBS's Motion for Relief from the Automatic Stay) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Protective Order Filed in State Court Litigation) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/07/2020	710 BNC certificate of mailing – PDF document. (RE: related document(s) 706 Order granting motion to appear pro hac vice adding Robert J. Feinstein for Highland Capital Management, L.P. (related document 695) Entered on 6/5/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 06/07/2020. (Admin.)
06/08/2020	711 Order granting motion to seal documents (related document # 696) Entered on 6/8/2020. (Okafor, M.)
06/08/2020	712 Certificate of No Objection filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) 593 Motion for relief from stay Fee amount \$181.). (Shaw, Brian)
06/08/2020	713 Order granting Motion to Redact (Related Doc # 700) Entered on 6/8/2020. (Okafor, M.)
06/08/2020	714 SEALED document regarding: Redeemer Committee's Objection to UBS's Motion for Relief From The Automatic Stay (unredacted version) per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) 711 Order on motion to seal). (Platt, Mark)
06/08/2020	715 SEALED document regarding: Exhibit A, Original Synthetic Warehouse Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) 711 Order on motion to seal). (Platt, Mark)

06/08/2020	<u>716</u> SEALED document regarding: Exhibit B, Original Engagement Ltr. per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<u>717</u> SEALED document regarding: Exhibit C, Original Cash Warehouse Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<u>718</u> SEALED document regarding: Exhibit D, Expert Report of Louis G. Dudney per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<u>719</u> SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<u>720</u> SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<u>721</u> SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<u>722</u> Order granting motion to seal documents (related document # <u>689</u>) Entered on 6/8/2020. (Okafor, M.)
06/08/2020	<u>723</u> SEALED document regarding: Appendix B of Exhibits in Support of Debtor's Objection to UBS's Motion for Relief from the Automatic Stay per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>722</u> Order on motion to seal). (Annable, Zachery)
06/08/2020	<u>724</u> Certificate of service re: <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>704</u> <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to April 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/10/2020	<u>725</u> Motion to appear pro hac vice for Sarah Tomkowiak. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)
06/10/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27830926, amount \$ 100.00 (re: Doc# <u>725</u>). (U.S. Treasury)
06/10/2020	<u>726</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)

06/10/2020	<u>727</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>639</u> Application for compensation <i>Sixth Monthly Application of Sidley Austin LLP for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2020 to 4/30/2020, Fee: \$438,619.). (Hoffman, Juliana)
06/10/2020	<u>728</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>640</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 3/31/2020, Fee: \$477,538.20, Expenses: \$14,937.66.). (Hoffman, Juliana)
06/10/2020	<u>729</u> Notice of Subpoena of Highland Capital Management, L.P. filed by Creditor CLO Holdco, Ltd.. (Kane, John)
06/11/2020	<u>730</u> Motion to appear pro hac vice for Alan J. Kornfeld. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
06/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27834758, amount \$ 100.00 (re: Doc# <u>730</u>). (U.S. Treasury)
06/11/2020	<u>731</u> Order granting motion to appear pro hac vice adding Sarah A. Tomkowiak for UBS AG London Branch and UBS Securities LLC (related document # <u>725</u>) Entered on 6/11/2020. (Okafor, M.)
06/11/2020	<u>732</u> Order approving fifth stipulation permitting Brown Rudnick LLP to file proofs of claim after the general bar ate (RE: related document(s) <u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 6/11/2020 (Okafor, M.) Modified text on 6/11/2020 (Okafor, M.).
06/11/2020	<u>733</u> Motion for leave to <i>File an Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action</i> (related document(s) <u>687</u> Response, <u>690</u> Objection, <u>692</u> Objection, <u>694</u> Joinder, <u>701</u> Objection) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 7/2/2020. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Reply # <u>3</u> Exhibit 1 # <u>4</u> Exhibit 2 # <u>5</u> Exhibit 3 # <u>6</u> Exhibit 4 # <u>7</u> Exhibit 5 # <u>8</u> Exhibit 6 # <u>9</u> Exhibit 7 # <u>10</u> Exhibit 8 # <u>11</u> Exhibit 9 # <u>12</u> Exhibit 10 # <u>13</u> Exhibit 11 # <u>14</u> Exhibit 12 # <u>15</u> Exhibit 13 # <u>16</u> Exhibit 14) (Sosland, Martin)
06/11/2020	<u>734</u> INCORRECT EVENT USED: See # <u>746</u> for correction. Motion for leave to <i>File Documents Under Seal with UBS's Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action</i> (related document(s) <u>733</u> Motion for leave) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 7/2/2020. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – State Court Protective Stipulation) (Sosland, Martin) Modified on 6/15/2020 (Ecker, C.).
06/11/2020	<u>746</u> Motion to file document under seal. Filed by Interested Parties UBS AG London Branch , UBS Securities LLC (Ecker, C.) (Entered: 06/15/2020)
06/12/2020	<u>735</u> COURT'S NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON JUNE 15, 2020 AT 1:30 p.m. (RE: related document(s) <u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181, Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 6/3/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K)). (Ellison, T.)

06/12/2020	<u>736</u> Order granting motion to appear pro hac vice adding Alan J. Kornfeld for Highland Capital Management, L.P. (related document # <u>730</u>) Entered on 6/12/2020. (Okafor, M.)
06/12/2020	<u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
06/12/2020	<u>738</u> Certificate of No Objection Regarding Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>648</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtors for the Period From April 1, 2020 Through April 30, 2020</i> for Jeffrey Nathan). (Annable, Zachery)
06/12/2020	<u>739</u> Witness and Exhibit List (<i>Debtor's Witness and Exhibit List for June 15, 2020 Hearing on UBS's Motion for Relief from the Automatic Stay</i>) filed by Debtor Highland Capital Management, L.P. (Related document(s) <u>644</u> UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch. MODIFIED to correct linkage on 6/15/2020 (Ecker, C.).
06/12/2020	<u>740</u> Witness and Exhibit List <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND WITNESS AND EXHIBIT LIST FOR JUNE 15, 2020 HEARING ON UBS MOTION FOR RELIEF FROM THE AUTOMATIC STAY</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Related document(s) <u>644</u> UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch. MODIFIED to correct linkage on 6/15/2020 (Ecker, C.).
06/12/2020	<u>741</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order)). Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>737</u> , (Annable, Zachery)
06/12/2020	<u>742</u> Witness and Exhibit List <i>for June 15, 2020 Hearing</i> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181.). (Sosland, Martin)
06/12/2020	<u>743</u> Amended Witness and Exhibit List <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND FIRST AMENDED WITNESS AND EXHIBIT LIST FOR JUNE 15, 2020 HEARING ON UBS MOTION FOR RELIEF FROM THE AUTOMATIC STAY</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>740</u> List (witness/exhibit/generic)). (Platt, Mark)
06/13/2020	<u>744</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>731</u> Order granting motion to appear pro hac vice adding Sarah A. Tomkowiak for UBS AG London Branch and UBS Securities LLC (related document <u>725</u>) Entered on 6/11/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 06/13/2020. (Admin.)
06/14/2020	<u>745</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>736</u> Order granting motion to appear pro hac vice adding Alan J. Kornfeld for Highland Capital Management, L.P. (related document <u>730</u>) Entered on 6/12/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 06/14/2020. (Admin.)
06/15/2020	<u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule

	9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s) <u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 7/6/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
06/15/2020	<u>748</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s) <u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 7/6/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order)). Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>747</u> , (Annable, Zachery)
06/15/2020	<u>754</u> Hearing held on 6/15/2020. (RE: related document(s) <u>644</u> (UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action), filed by Interested Parties UBS AG London Branch, UBS Securities LLC.) (Appearances (all via WebEx): M. Sosland, A. Clubok, and S. Tomkowiak for UBS; J. Pomerantz, R. Feinstein, G. Demo, A. Kornfeld, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; B. Shaw and R. Patel for Acis; M. Rosenthal for Alvarez & Marsal. Evidentiary hearing. Motion denied. Debtors counsel to upload order.) (Edmond, Michael) (Entered: 06/17/2020)
06/15/2020	<u>770</u> Court admitted exhibits date of hearing June 15, 2020 (RE: related document(s) <u>644</u> Motion for relief from stay (UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action), filed by Interested Parties UBS AG London Branch, UBS Securities LLC., (COURT ADMITTED ALL EXHIBIT'S TO ALL THE ATTACHED OBJECTOR'S OBJECTION ALL EXCEPT FOR EXHIBIT #D (EXPERT REPORT OF LOUIS G. DUDLEY; THAT IS FILED UNDER SEAL); ON THE REDEEMER COMMITTEE OBJECTION; THE FOLLOWING EXHIBIT'S ATTACHED TO THE MOTION OF UBS'S MOTION TO LIFT STAY ALL ADMITTED; # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K; ALSO PLEASE SEE WITNESS AND EXHIBIT LIST OF DEBTOR; CREDITOR UBS AND REDEEMER COMMITTEE) (Edmond, Michael) (Entered: 06/23/2020)
06/16/2020	<u>749</u> ENTER AN ERROR; NO PDF ATTACHED: Request for transcript regarding a hearing held on 6/15/2020. The requested turn-around time is daily (Edmond, Michael) Modified on 6/16/2020 (Edmond, Michael).
06/16/2020	<u>750</u> Request for transcript regarding a hearing held on 6/15/2020. The requested turn-around time is daily. (Edmond, Michael)
06/16/2020	<u>751</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 4/30/2020, Fee: \$32,602.50, Expenses: \$0.00. Filed by Attorney Holland N. O'Neil Objections due by 7/7/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
06/16/2020	<u>752</u> Notice of hearing(<i>Notice of August 6, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 8/6/2020 at 09:30 AM Dallas Judge Jernigan Ctrm (Annable, Zachery)
06/16/2020	<u>753</u> Notice of hearing (<i>Notice of July 14, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm (Annable, Zachery)
06/17/2020	<u>755</u> Transcript regarding Hearing Held 06/15/2020 (127 pages) RE: Motion for Relief from the Automatic Stay. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY

	<p>AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 754 Hearing held on 6/15/2020. (RE: related document(s) 644 (UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action), filed by Interested Parties UBS AG London Branch, UBS Securities LLC.) (Appearances (all via WebEx): M. Sosland, A. Clubok, and S. Tomkowiak for UBS; J. Pomerantz, R. Feinstein, G. Demo, A. Kornfeld, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; B. Shaw and R. Patel for Acis; M. Rosenthal for Alvarez & Marsal. Evidentiary hearing. Motion denied. Debtors counsel to upload order.)). Transcript to be made available to the public on 09/15/2020. (Rehling, Kathy)</p>
06/17/2020	<p><u>756</u> Certificate of service re: <i>1) WebEx Meeting Invitation to participate electronically in the hearing on Monday, June 15, 2020 at 1:30 p.m. Central Time before the Honorable Stacey G. Jernigan; and 2) Instructions for any counsel and parties who wish to participate in the Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>735</u> COURT'S NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON JUNE 15, 2020 AT 1:30 p.m. (RE: related document(s) <u>644</u> Motion for relief from stay (UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action) Fee amount \$181, Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 6/3/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Exhibit J # 11 Exhibit K)). (Ellison, T.)). (Kass, Albert)</p>
06/17/2020	<p><u>757</u> Certificate of service re: <i>Fifth Stipulation by and Between the Debtor and Brown Rudnick LLP Extending the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>726</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/17/2020	<p><u>758</u> Certificate of service re: <i>1) Motion for Admission Pro Hac Vice of Alan J. Kornfeld to Represent Highland Capital Management, L.P.; and 2) Order Approving Fifth Stipulation Permitting Brown Rudnick LLP to File Proofs of Claim After the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>730</u> Motion to appear pro hac vice for Alan J. Kornfeld. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>732</u> Order approving fifth stipulation permitting Brown Rudnick LLP to file proofs of claim after the general bar ate (RE: related document(s) <u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 6/11/2020 (Okafor, M.) Modified text on 6/11/2020 (Okafor, M.)). (Kass, Albert)</p>
06/17/2020	<p><u>759</u> Certificate of service re: <i>Documents Served on June 12, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>736</u> Order granting motion to appear pro hac vice adding Alan J. Kornfeld for Highland Capital Management, L.P. (related document <u>730</u>) Entered on 6/12/2020. (Okafor, M.), <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>739</u> Witness and Exhibit List (<i>Debtor's Witness and Exhibit List for June 15, 2020 Hearing on UBS's Motion for Relief from the Automatic Stay</i>) filed by Debtor Highland Capital Management, L.P. (Related document(s) <u>644</u> UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch. MODIFIED to correct linkage on 6/15/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>741</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit</p>

	A—Proposed Order)). Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>737</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/17/2020	<u>760</u> Certificate of service re: 1) <i>Debtor's Motion for Entry of an Order Further Extending the Period Within Which it May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure</i> ; and 2) <i>Notice of Hearing Regarding Debtor's Motion for Entry of an Order Further Extending the Period Within Which it May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure</i> ; to be Held on July 8, 2020 at 1:30 p.m. (Central Time) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s) <u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 7/6/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>748</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s) <u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 7/6/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>747</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/17/2020	<u>761</u> Certificate of service re: 1) <i>Cover Sheet and Sixth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 Through April 30, 2020</i> ; 2) <i>Notice of August 6, 2020 Omnibus Hearing Date</i> ; and 3) <i>Notice of July 14, 2020 Omnibus Hearing Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>751</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 4/30/2020, Fee: \$32,602.50, Expenses: \$0.00. Filed by Attorney Holland N. O'Neil Objections due by 7/7/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>752</u> Notice of hearing(<i>Notice of August 6, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 8/6/2020 at 09:30 AM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P., <u>753</u> Notice of hearing (<i>Notice of July 14, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/18/2020	<u>762</u> Application for compensation <i>Seventh Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 5/1/2020 to 5/31/2020, Fee: \$27,822.00, Expenses: \$489.80. Filed by Attorney Holland N. O'Neil Objections due by 7/9/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
06/18/2020	<u>763</u> Agreed Order granting application to employ Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the petition date (related document # <u>604</u>) Entered on 6/18/2020. (Bradden, T.)
06/18/2020	<u>764</u> Order granting motion for relief from stay by Acis Capital Management GP, LLC , Acis Capital Management, L.P. (related document # <u>593</u>) Entered on 6/18/2020. (Bradden, T.)
06/19/2020	<u>765</u> Order denying motion for relief from stay by Interested Parties UBS AG London Branch , UBS Securities LLC (related document # <u>644</u>) Entered on 6/19/2020. (Okafor, M.)

06/20/2020	<u>766</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>764</u> Order granting motion for relief from stay by Acis Capital Management GP, LLC , Acis Capital Management, L.P. (related document <u>593</u>) Entered on 6/18/2020. (Bradden, T.)) No. of Notices: 1. Notice Date 06/20/2020. (Admin.) (Entered: 06/21/2020)
06/22/2020	<u>767</u> Application for compensation <i>Sidley Austin LLP's Seventh Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2020 to 5/31/2020, Fee: \$343,624.68, Expenses: \$2,758.75. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/13/2020. (Hoffman, Juliana)
06/22/2020	<u>768</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>675</u> Application for compensation <i>Sixth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2020 to 4/30/2020, Fee: \$489,957.84, Expenses: \$6,702.95.). (Hoffman, Juliana)
06/22/2020	<u>769</u> Certificate of service re: 1) <i>Cover Sheet and Seventh Monthly Application for Compensation and Reimbursement of Expenses of Foley Lardner LLP as Special Texas Counsel to the Debtor for the Period from May 1, 2020 Through May 31, 2020</i> ; and 2) <i>Agreed Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>762</u> Application for compensation <i>Seventh Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 5/1/2020 to 5/31/2020, Fee: \$27,822.00, Expenses: \$489.80. Filed by Attorney Holland N. O'Neil Objections due by 7/9/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>763</u> Agreed Order granting application to employ Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the petition date (related document <u>604</u>) Entered on 6/18/2020. (Bradden, T.)). (Kass, Albert)
06/23/2020	<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020. (Annable, Zachery)
06/23/2020	<u>772</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Hearing to be held on 8/6/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u> , (Annable, Zachery)
06/23/2020	<u>773</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 5/1/2020 to 5/31/2020, Fee: \$803,509.50, Expenses: \$4,372.94. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/14/2020. (Pomerantz, Jeffrey)
06/23/2020	<u>774</u> Application to employ James P. Seery, Jr. as Other Professional <i>Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
06/23/2020	<u>775</u> Application to employ Development Specialists, Inc. as Other Professional <i>Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)

06/23/2020	<p><u>776</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>774</u> Application to employ James P. Seery, Jr. as Other Professional <i>Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>774</u>, (Annable, Zachery)</p>
06/23/2020	<p><u>777</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>775</u> Application to employ Development Specialists, Inc. as Other Professional <i>Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>775</u>, (Annable, Zachery)</p>
06/24/2020	<p><u>778</u> Certificate of service re: <i>Summary Sheet and Seventh Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from May 1, 2020 to and Including May 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>767</u> Application for compensation <i>Sidley Austin LLP's Seventh Monthly Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2020 to 5/31/2020, Fee: \$343,624.68, Expenses: \$2,758.75.</i> Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/13/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
06/24/2020	<p><u>779</u> Certificate of service re: <i>Documents Served on 23, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020. filed by Debtor Highland Capital Management, L.P., <u>772</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Hearing to be held on 8/6/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u>, filed by Debtor Highland Capital Management, L.P., <u>773</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 5/1/2020 to 5/31/2020, Fee: \$803,509.50, Expenses: \$4,372.94. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/14/2020. filed by Debtor Highland Capital Management, L.P., <u>774</u> Application to employ James P. Seery, Jr. as Other Professional <i>Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>775</u> Application to employ Development Specialists, Inc. as Other Professional <i>Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>776</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>774</u> Application to employ James P. Seery, Jr. as Other Professional <i>Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>774</u>, filed by Debtor Highland Capital Management, L.P., <u>777</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>775</u> Application to employ Development Specialists, Inc. as Other Professional <i>Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related</i></p>

	<i>Services, Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>775</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/25/2020	<u>780</u> Notice of Subpoena of David Klos filed by Creditor CLO Holdco, Ltd.. (Kane, John)
06/26/2020	<u>781</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2020 through May 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Annable, Zachery)
06/26/2020	<u>782</u> Witness and Exhibit List filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [<i>Motion for Remittance of Funds Held in Registry of Court</i>]). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 1-A # <u>3</u> Exhibit 1-B # <u>4</u> Exhibit 1-C # <u>5</u> Exhibit 1-D # <u>6</u> Exhibit 1-E # <u>7</u> Exhibit 1-F # <u>8</u> Exhibit 1-G # <u>9</u> Exhibit 1-H # <u>10</u> Exhibit 1-I # <u>11</u> Exhibit 2 # <u>12</u> Exhibit 3 # <u>13</u> Exhibit 4 # <u>14</u> Exhibit 5 # <u>15</u> Exhibit 6 # <u>16</u> Exhibit 7 # <u>17</u> Exhibit 8 # <u>18</u> Exhibit 9 # <u>19</u> Exhibit 10 # <u>20</u> Exhibit 11 # <u>21</u> Exhibit 12 # <u>22</u> Exhibit 13 # <u>23</u> Exhibit 14 # <u>24</u> Exhibit 15 # <u>25</u> Exhibit 16) (Kane, John)
06/26/2020	<u>783</u> SEALED document regarding: Exhibit 11 – AROF MUFG Bank Statement June 2018_ Highland_PEO-032620 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<u>784</u> SEALED document regarding: Exhibit 12 – GG and HCM Purchase and Sale Agreement Loan Fund dated December 28, 2016 Highly Confidential per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<u>785</u> SEALED document regarding: Exhibit 13 – GG and HCM Amendment to Purchase and Sale Agreement Loan Fund dated December 28, 2016 Highly Confidential per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<u>786</u> SEALED document regarding: Exhibit 14 – Exercise of Discretion by Trustee The Get Good Nonexempt Trust (Fully Executed) dated December 28, 2016 Highly Confidential per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<u>787</u> SEALED document regarding: Exhibit 15 – Dynamic Income CLO Holdco Side Letter (\$2M Subscription) dated January 10, 2017 Highly Confidential per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<u>788</u> SEALED document regarding: Exhibit 16 – Highland Capital Management, L.P. December 31, 2016 Final Opinion per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/27/2020	<u>789</u> Witness and Exhibit List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [<i>Motion for Remittance of Funds Held in Registry of Court</i>]). (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit) (Hoffman, Juliana)
06/29/2020	<u>790</u> COURTS NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON June 30, 2020 at 09:30 AM; (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [<i>Motion for Remittance of Funds Held in Registry of Court</i>] filed by Creditor CLO

	Holdco, Ltd. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Proposed Order # 11 Service List)). (Edmond, Michael)
06/30/2020	<u>791</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland)) Responses due by 7/14/2020. (Ecker, C.)
06/30/2020	<u>792</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order)) Responses due by 7/14/2020. (Ecker, C.)
06/30/2020	<u>793</u> Hearing held on 6/30/2020. (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [Motion for Remittance of Funds Held in Registry of Court] filed by Creditor CLO Holdco, Ltd. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Proposed Order # 11 Service List). (Appearances: J. Kane and B. Clark for Movant; J. Pomeranz, J. Morris, G. Demo, and Z. Annabel for Debtor; M. Clemente for Unsecured Creditors Committee; M. Platt and M. Hankin for Redeemers Committee; R. Patel for Acis; A. Anderson and J. Bentley for certain CLO Issuers. Evidentiary hearing. Motion denied, but court ordered that funds in registry of court will be disbursed to CLO Holdco, Ltd. in 90 days unless an adversary proceeding has been filed against it and injunctive/equitable relief is sought and granted in such adversary proceeding, requiring further holding of the funds in the registry of the court (subject to requests/agreements for extension of this 90-day deadline). Also, court registry will be receiving further funds that Debtor is due to disburse to CLO Holdco and Highland Capital Management Services, Inc. imminently (separate order is to be submitted by Debtors counsel; UCC counsel to submit an order on today's ruling on CLO Holdcos motion). (Edmond, Michael)
06/30/2020	<u>794</u> Court admitted exhibits date of hearing June 30, 2020 (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [Motion for Remittance of Funds Held in Registry of Court] filed by Creditor CLO Holdco, Ltd. (COURT ADMITTED MOVANT'S CLO HOLDCO, LTD., EXHIBITS #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15 & #16; ALSO ADMITTED DEFENDANT'S UNSECURED CREDITOR'S COMMITTEE EXHIBIT'S #1, #2 & #3) (Edmond, Michael)
06/30/2020	<u>795</u> Application for compensation (<i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 4/30/2020, Fee: \$24877.50, Expenses: \$36.00. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A April 2020 Invoice) (Annable, Zachery)
07/01/2020	<u>796</u> Request for transcript regarding a hearing held on 6/30/2020. The requested turn-around time is daily. (Edmond, Michael)
07/01/2020	<u>797</u> Certificate of service re: <i>re: Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2020 Through May 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>781</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period</i>

	<p><i>from May 1, 2020 through May 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
07/01/2020	<p><u>798</u> Certificate of service re: <i>re: The Official Committee of Unsecured Creditors' Witness and Exhibit List for the June 30, 2020 Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>789</u> Witness and Exhibit List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>590</u> Motion to reclaim funds from the registry [<i>Motion for Remittance of Funds Held in Registry of Court</i>]). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit) filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
07/01/2020	<p><u>799</u> Certificate of service re: <i>Cover Sheet and Fifth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from April 1, 2020 Through April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>795</u> Application for compensation (<i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 4/30/2020, Fee: \$24877.50, Expenses: \$36.00. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A April 2020 Invoice) filed by Other Professional Hayward & Associates PLLC). (Kass, Albert)</p>
07/02/2020	<p><u>800</u> Debtor-in-possession monthly operating report for filing period May 1, 2020 to May 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
07/02/2020	<p><u>801</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)</p>
07/02/2020	<p><u>802</u> Transcript regarding Hearing Held 06/30/2020 (100 pages) RE: Motion for Remittance of Funds (590). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/30/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 793 Hearing held on 6/30/2020. (RE: related document(s)<u>590</u> Motion to reclaim funds from the registry [<i>Motion for Remittance of Funds Held in Registry of Court</i>] filed by Creditor CLO Holdco, Ltd. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Proposed Order # 11 Service List). (Appearances: J. Kane and B. Clark for Movant; J. Pomeranz, J. Morris, G. Demo, and Z. Annabel for Debtor; M. Clemente for Unsecured Creditors Committee; M. Platt and M. Hankin for Redeemers Committee; R. Patel for Acis; A. Anderson and J. Bentley for certain CLO Issuers. Evidentiary hearing. Motion denied, but court ordered that funds in registry of court will be disbursed to CLO Holdco, Ltd. in 90 days unless an adversary proceeding has been filed against it and injunctive/equitable relief is sought and granted in such adversary proceeding, requiring further holding of the funds in the registry of the court (subject to requests/agreements for extension of this 90-day deadline). Also, court registry will be receiving further funds that Debtor is due to disburse to CLO Holdco and Highland Capital</p>

	Management Services, Inc. imminently (separate order is to be submitted by Debtors counsel; UCC counsel to submit an order on today's ruling on CLO Holdcos motion). Transcript to be made available to the public on 09/30/2020. (Rehling, Kathy)
07/02/2020	<u>803</u> BNC certificate of mailing. (RE: related document(s) <u>792</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order)) Responses due by 7/14/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 07/02/2020. (Admin.)
07/03/2020	<u>804</u> Response unopposed to (related document(s): <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
07/06/2020	<u>805</u> Notice of hearing (<i>Notice of September 10, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm (Annable, Zachery)
07/07/2020	<u>806</u> Certificate of service re: 1) <i>Webex Meeting Invitation to participate electronically in the hearing on Tuesday, May 26, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan</i> ; 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing</i> ; and 3) <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>801</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/07/2020	<u>807</u> Certificate of service re: <i>Statement of the Official Committee of Unsecured Creditors in Response to the Debtor's Third Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016-1 Further Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>804</u> Response unopposed to (related document(s): <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
07/08/2020	<u>808</u> Motion to compel Production by the Debtor. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/29/2020. (Montgomery, Paige)
07/08/2020	<u>809</u> Certificate of service re: <i>Notice of September 10, 2020 Omnibus Hearing Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>805</u> Notice of hearing (<i>Notice of September 10, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

07/08/2020	<p><u>812</u> Hearing held on 7/8/2020. (RE: related document(s)<u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.) (Edmond, Michael) (Entered: 07/09/2020)</p>
07/08/2020	<p><u>813</u> Hearing held on 7/8/2020. (RE: related document(s)<u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)<u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.) (Edmond, Michael) (Entered: 07/09/2020)</p>
07/09/2020	<p><u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
07/09/2020	<p><u>811</u> Declaration re: (<i>Declaration of John A. Morris in Support of Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs</i>). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G) (Annable, Zachery)</p>
07/09/2020	<p><u>814</u> Motion for expedited hearing(related documents <u>808</u> Motion to compel) Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)</p>
07/09/2020	<p><u>815</u> Request for transcript regarding a hearing held on 7/8/2020. The requested turn-around time is hourly. (Edmond, Michael)</p>
07/09/2020	<p><u>816</u> Order granting <u>747</u> Motion to extend time to within which it may remove actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>459</u> O) Entered on 7/9/2020. (Okafor, M.)</p>
07/10/2020	<p><u>817</u> Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>812</u> Hearing held on 7/8/2020. (RE: related document(s)<u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day</p>

	extension). Debtors counsel to upload order.), 813 Hearing held on 7/8/2020. (RE: related document(s) <u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s) <u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
07/10/2020	<u>818</u> Certificate of No Objection filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>751</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i> for Foley Gardere.). (O'Neil, Holland)
07/10/2020	<u>819</u> Certificate of No Objection filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>762</u> Application for compensation <i>Seventh Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Foley Gardere). (O'Neil, Holland)
07/10/2020	<u>820</u> Order granting <u>737</u> Motion to extend or limit the exclusivity period. The Exclusive Filing Period is extended through and including August 12, 2020. Entered on 7/10/2020. (Okafor, M.)
07/10/2020	<u>821</u> Agreed order regarding deposit of funds into the registry of the Court. (Related Doc # <u>474</u>) Entered on 7/10/2020. (Okafor, M.)
07/10/2020	<u>822</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>774</u> Application to employ James P. Seery, Jr. as Other Professional Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Repr, <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restruct.). (Annable, Zachery)
07/13/2020	<u>823</u> Certificate of service re: <i>Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>808</u> Motion to compel Production by the Debtor. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/29/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
07/13/2020	<u>824</u> Certificate of service re: <i>Documents Served on July 9, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>811</u> Declaration re: (<i>Declaration of John A. Morris in Support of Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs.</i>

	<i>(Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G) filed by Debtor Highland Capital Management, L.P., <u>814</u> Motion for expedited hearing(related documents <u>808</u> Motion to compel) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors, <u>816</u> Order granting <u>747</u> Motion to extend time to within which it may remove actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>459</u> O) Entered on 7/9/2020. (Okafor, M.)). (Kass, Albert)</i>
07/13/2020	<u>825</u> Order denying motion to reclaim funds from the registry (Related Doc # <u>590</u>) Entered on 7/13/2020. (Okafor, M.)
07/13/2020	<u>826</u> Stipulation by Highland Capital Management, L.P. and The Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>808</u> Motion to compel Production by the Debtor. , <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs, <u>814</u> Motion for expedited hearing(related documents <u>808</u> Motion to compel)). (Annable, Zachery)</i>
07/13/2020	<u>827</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management, L.P. and Acis Capital Management GP, LLC.. Filed by Interested Party James Dondero. (Assink, Bryan)
07/13/2020	<u>828</u> Certificate of service re: 1) Order Granting Debtor's Third Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016-1 Further Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan; 2) Agreed Order Regarding Deposit of Funds into the Registry of the Court; and 3) Debtors Witness and Exhibit List with Respect to (A) the Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to May 15, 2020, and (B) the Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363 (b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring Related Services Nunc Pro Tunc to March 15 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>820</u> Order granting <u>737</u> Motion to extend or limit the exclusivity period. The Exclusive Filing Period is extended through and including August 12, 2020. Entered on 7/10/2020. (Okafor, M.), <u>821</u> Agreed order regarding deposit of funds into the registry of the Court. (Related Doc <u>474</u>) Entered on 7/10/2020. (Okafor, M.), <u>822</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>774</u> Application to employ James P. Seery, Jr. as Other Professional Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Repr, <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restruct). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/14/2020	<u>829</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>767</u> Application for compensation Sidley Austin LLP's Seventh Monthly Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2020 to 5/31/2020, Fee: \$34). (Hoffman, Juliana)
07/14/2020	<u>830</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 5/1/2020 to 5/31/2020, Fee: \$223,330.68, Expenses: \$1,874.65. Filed by Attorney Juliana Hoffman Objections due by 8/4/2020. (Hoffman, Juliana)
07/14/2020	<u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured

	Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F) (Hoffman, Juliana)
07/14/2020	<u>832</u> Response opposed to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party James Dondero. (Assink, Bryan)
07/14/2020	<u>833</u> Request for transcript regarding a hearing held on 7/14/2020. The requested turn-around time is daily. (Edmond, Michael)
07/14/2020	<u>836</u> Court admitted exhibits date of hearing July 14, 2020 (RE: related document(s) <u>774</u> Application to employ James P. Seery, Jr. as Other Professional Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P., And <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020 filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED EXHIBIT'S #1, #2, #3, #4, #5, #6 & #7) (Edmond, Michael) (Entered: 07/15/2020)
07/14/2020	<u>862</u> Hearing held on 7/14/2020. (RE: related document(s) <u>774</u> Application to employ James P. Seery, Jr. as Other Professional Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.) (Edmond, Michael) (Entered: 07/17/2020)
07/14/2020	<u>863</u> Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.) (Edmond, Michael) (Entered: 07/17/2020)
07/15/2020	<u>834</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>773</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Jeffrey Nathan P). (Annable, Zachery)
07/15/2020	<u>835</u> Motion to appear pro hac vice for James A. Wright III. Fee Amount \$100 Filed by Interested Parties NexPoint Real Estate Strategies Fund, Highland Global Allocation Fund, Highland Income Fund, NexPoint Strategic Opportunities Fund, NexPoint Capital, Inc., Highland Total Return Fund, Highland Fixed Income Fund, Highland Socially Responsible Equity Fund, Highland Small-Cap Equity Fund, Highland Funds II and its series, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland/iBoxx Senior Loan ETF, Highland Healthcare Opportunities Fund, Highland Funds I and its series, NexPoint

	Advisors, L.P., Highland Capital Management Fund Advisors, L.P. (Varshosaz, Artoush)
07/15/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27927823, amount \$ 100.00 (re: Doc# <u>835</u>). (U.S. Treasury)
07/15/2020	<u>837</u> Response opposed to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, L.P.</i>) filed by John Honis, Rand PE Fund Management, LLC, Rand PE Fund I, LP, Rand Advisors, LLC, Hunter Mountain Investment Trust, Beacon Mountain, LLC, Atlas IDF, LP, Atlas IDF, GP, LLC. (Keiffer, Edwin)
07/15/2020	<u>838</u> INCORRECT ENTRY: Attorney to amend and refile. Motion to appear pro hac vice for Stephen G. Topetzes. Fee Amount \$100 Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (Varshosaz, Artoush) MODIFIED on 7/16/2020 (Ecker, C.).
07/15/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27928069, amount \$ 100.00 (re: Doc# <u>838</u>). (U.S. Treasury)
07/15/2020	<u>839</u> Response opposed to (related document(s): <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, L.P.</i>) filed by Creditor Committee Official Committee of Unsecured Creditors. (Montgomery, Paige)
07/15/2020	<u>840</u> INCORRECT ENTRY: FILED WITHOUT EXHIBITS. Notice of Appearance and Request for Notice by Paul Richard Bessette filed by Interested Party Highland CLO Funding, Ltd.. (Bessette, Paul) Modified on 7/15/2020 (Rielly, Bill).
07/15/2020	<u>841</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, L.P.</i>) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Varshosaz, Artoush)
07/15/2020	<u>842</u> Notice of Appearance and Request for Notice by Amanda Melanie Rush filed by Interested Party CCS Medical, Inc.. (Rush, Amanda)
07/15/2020	<u>843</u> Motion to appear pro hac vice for Tracy K. Stratford. Fee Amount \$100 Filed by Interested Party CCS Medical, Inc. (Rush, Amanda)

07/15/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27928305, amount \$ 100.00 (re: Doc# <u>843</u>). (U.S. Treasury)
07/15/2020	<u>844</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, L.P.</i>) filed by Interested Party CCS Medical, Inc.. (Rush, Amanda)
07/15/2020	<u>845</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
07/15/2020	<u>846</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Creditor CLO Holdco, Ltd.. (Attachments: # <u>1</u> Exhibit A) (Kane, John)
07/15/2020	<u>847</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Parties NexPoint Real Estate Advisors VIII, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors, L.P., VineBrook Homes, Trust, Inc., NexPoint Multifamily Capital Trust, Inc., NexPoint Real Estate Partners, LLC, NexPoint Hospitality Trust, NexPoint Residential Trust, Inc., Nexpoint Real Estate Capital, LLC, NexPoint Real Estate Finance Inc.. (Drawhorn, Lauren)
07/15/2020	<u>848</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Objection to the Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>845</u> Objection). (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
07/16/2020	<u>849</u> Amended Motion to appear pro hac vice for Stephen G. Topetzes. (related document: <u>838</u>) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (Varshosaz, Artoush)
07/16/2020	<u>850</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>808</u> Motion to compel Production by the Debtor. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/29/2020., <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/21/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>810</u> and for <u>808</u> , (Annable, Zachery)
07/16/2020	<u>851</u> Notice of hearing (<i>Notice of September 17, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm (Annable, Zachery)
07/16/2020	

	<u>852</u> Order Approving Stipulation Resolving the Motion for Expedited Consideration of the Official Committee of the Unsecured Creditors' Motion to Compel Production by the Debtor (RE: related document(s) <u>826</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 7/16/2020 (Ecker, C.)
07/16/2020	<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document # <u>775</u>) Entered on 7/16/2020. (Ecker, C.)
07/16/2020	<u>854</u> Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u>) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
07/16/2020	<u>855</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party MGM Holdings, Inc.. (Drawhorn, Lauren)
07/16/2020	<u>856</u> Notice of Appearance and Request for Notice by Artoush Varshosaz filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Varshosaz, Artoush)
07/16/2020	<u>857</u> Motion to appear pro hac vice for Mark M. Maloney. Fee Amount \$100 Filed by Interested Party Highland CLO Funding, Ltd. (Bessette, Paul)
07/16/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 27932614, amount \$ 100.00 (re: Doc# <u>857</u>). (U.S. Treasury)
07/16/2020	<u>858</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party Highland CLO Funding, Ltd.. (Bessette, Paul)
07/16/2020	<u>859</u> Declaration re: <u>858</u> <i>Objection</i> filed by Interested Party Highland CLO Funding, Ltd. (RE: related document(s) <u>808</u> Motion to compel Production by the Debtor.). (Attachments: # <u>1</u> Exhibit A) (Bessette, Paul)
07/16/2020	<u>860</u> Certificate of service re: <i>1) Order Denying Motion for Remittance of Funds Held in Registry of Court; and 2) Stipulation by and Between the Debtor and the Official Committee of Unsecured Creditors</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>825</u> Order denying motion to reclaim funds from the registry (Related Doc <u>590</u>) Entered on 7/13/2020. (Okafor, M.), <u>826</u> Stipulation by Highland Capital Management, L.P. and The Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>808</u> Motion to compel Production by the Debtor. , <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs, <u>814</u> Motion for expedited hearing(related documents <u>808</u> Motion to compel</i>) . filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/16/2020	<u>861</u> Certificate of service re: <i>1) Summary Sheet and Seventh Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from May 1, 2020 to and Including May 31, 2020; and 2) Summary Sheet and Second Interim Fee Application of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period</i>

	<p>from March 1, 2020 Through and Including May 31, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>830</u>) Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 5/1/2020 to 5/31/2020, Fee: \$223,330.68, Expenses: \$1,874.65. Filed by Attorney Juliana Hoffman Objections due by 8/4/2020. filed by Financial Advisor FTI Consulting, Inc., <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F) filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
07/17/2020	<p><u>864</u> Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>863</u> Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)</p>
07/17/2020	<p><u>865</u> Order granting motion to appear pro hac vice adding Tracy K. Stratford for CCS Medical, Inc. (related document # <u>843</u>) Entered on 7/17/2020. (Ecker, C.)</p>
07/17/2020	<p><u>866</u> Order granting motion to appear pro hac vice adding James A. Wright for Highland Funds I and its series; Highland Funds II and its series; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland Income Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Total Return Fund; Highland/iBoxx Senior Loan ETF; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; Highland Capital Management Fund Advisors, L.P. and Highland Fixed Income Fund (related document # <u>835</u>) Entered on 7/17/2020. (Ecker, C.)</p>
07/17/2020	<p><u>867</u> Order granting motion to appear pro hac vice adding Stephen G. Topetzes for Highland Funds I and its series; Highland Funds II and its series; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland Income Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Total Return Fund; Highland/iBoxx Senior Loan ETF; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Real Estate Strategies Fund; Highland Capital Management Fund Advisors, L.P. and Highland Fixed Income Fund (related document # <u>849</u>) Entered on 7/17/2020. (Ecker, C.)</p>
07/17/2020	<p><u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020. (Annable, Zachery)</p>
07/17/2020	

	<u>869</u> Reply to (related document(s): <u>839</u> Response filed by Creditor Committee Official Committee of Unsecured Creditors) (<i>Debtor's Reply to the Committee's Response to the Debtor's Discovery Motion</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
07/17/2020	<u>870</u> Declaration re: (<i>Declaration of John A. Morris in Further Support of the Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs.</i>)). (Annable, Zachery)
07/17/2020	<u>871</u> Declaration re: <i>First Supplemental Declaration of Alexander McGeoch in Support of Debtor's Application for an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>)). (Hesse, Gregory)
07/17/2020	<u>872</u> Response opposed to (related document(s): <u>841</u> Objection filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Funds I and its series, Interested Party Highland Healthcare Opportunities Fund, Interested Party Highland/iBoxx Senior Loan ETF, Interested Party Highland Opportunistic Credit Fund, Interested Party Highland Merger Arbitrage Fund, Interested Party Highland Funds II and its series, Interested Party Highland Small-Cap Equity Fund, Interested Party Highland Fixed Income Fund, Interested Party Highland Socially Responsible Equity Fund, Interested Party Highland Total Return Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund, Interested Party NexPoint Real Estate Strategies Fund, <u>844</u> Objection filed by Interested Party CCS Medical, Inc., <u>845</u> Objection filed by Debtor Highland Capital Management, L.P., <u>846</u> Objection filed by Creditor CLO Holdco, Ltd., <u>847</u> Objection filed by Interested Party NexPoint Real Estate Finance Inc., Interested Party Nexpoint Real Estate Capital, LLC, Interested Party NexPoint Residential Trust, Inc., Interested Party NexPoint Hospitality Trust, Interested Party NexPoint Real Estate Partners, LLC, Interested Party NexPoint Multifamily Capital Trust, Inc., Interested Party VineBrook Homes, Trust, Inc., Interested Party NexPoint Real Estate Advisors, L.P., Interested Party NexPoint Real Estate Advisors II, L.P., Interested Party NexPoint Real Estate Advisors III, L.P., Interested Party NexPoint Real Estate Advisors IV, L.P., Interested Party NexPoint Real Estate Advisors V, L.P., Interested Party NexPoint Real Estate Advisors VI, L.P., Interested Party NexPoint Real Estate Advisors VII, L.P., Interested Party NexPoint Real Estate Advisors VIII, L.P., <u>855</u> Objection filed by Interested Party MGM Holdings, Inc., <u>858</u> Objection filed by Interested Party Highland CLO Funding, Ltd.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Montgomery, Paige)
07/17/2020	<u>873</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020.). Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>868</u> , (Annable, Zachery)
07/19/2020	<u>874</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>865</u> Order granting motion to appear pro hac vice adding Tracy K. Stratford for CCS Medical, Inc. (related document <u>843</u>) Entered on 7/17/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 07/19/2020. (Admin.)
07/19/2020	

	<p><u>875</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>866</u> Order granting motion to appear pro hac vice adding James A. Wright for Highland Funds I and its series; Highland Funds II and its series; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland Income Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small–Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Total Return Fund; Highland/iBoxx Senior Loan ETF; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; Highland Capital Management Fund Advisors, L.P. and Highland Fixed Income Fund (related document <u>835</u>) Entered on 7/17/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 07/19/2020. (Admin.)</p>
07/19/2020	<p><u>876</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>867</u> Order granting motion to appear pro hac vice adding Stephen G. Topetztes for Highland Funds I and its series; Highland Funds II and its series; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland Income Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small–Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Total Return Fund; Highland/iBoxx Senior Loan ETF; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Real Estate Strategies Fund; Highland Capital Management Fund Advisors, L.P. and Highland Fixed Income Fund (related document <u>849</u>) Entered on 7/17/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 07/19/2020. (Admin.)</p>
07/20/2020	<p><u>877</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 6/30/2020, Fee: \$493,788.96, Expenses: \$5,759.29. Filed by Objections due by 8/10/2020. (Hoffman, Juliana)</p>
07/20/2020	<p><u>878</u> Application for compensation <i>Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$818,786.50, Expenses: \$3,205.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 8/10/2020. (Pomerantz, Jeffrey)</p>
07/20/2020	<p><u>879</u> Amended application for compensation <i>Amended Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020 (amended to include Exhibit)</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$818,786.50, Expenses: \$3,205.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 8/10/2020. (Pomerantz, Jeffrey)</p>
07/20/2020	<p><u>880</u> Certificate of service re: <i>1) Debtor's Objection to Official Committee of Unsecured Creditors Emergency Motion to Compel Production by the Debtor; and 2) Declaration of John A. Morris in Support of the Debtor's Objection to the Official Committee of Unsecured Creditors Emergency Motion to Compel Production by the Debtor</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>845</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>848</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Objection to the Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>845</u> Objection). (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
07/20/2020	<p><u>881</u> Certificate of service re: <i>Documents Served on July 16, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>850</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>808</u> Motion to compel Production by the Debtor. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/29/2020., <u>810</u> Motion for protective order (<i>Debtor's Motion</i></p>

	<p>for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/21/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>810</u> and for <u>808</u>, filed by Debtor Highland Capital Management, L.P., <u>851</u> Notice of hearing (<i>Notice of September 17, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P., <u>852</u> Order Approving Stipulation Resolving the Motion for Expedited Consideration of the Official Committee of the Unsecured Creditors' Motion to Compel Production by the Debtor (RE: related document(s)<u>826</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 7/16/2020 (Ecker, C.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.), <u>854</u> Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u>) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.). (Kass, Albert)</p>
07/21/2020	<p><u>882</u> Order granting motion to appear pro hac vice adding Mark M. Maloney for Highland CLO Funding, Ltd. (related document # <u>857</u>) Entered on 7/21/2020. (Okafor, M.)</p>
07/21/2020	<p><u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020. (Hoffman, Juliana)</p>
07/21/2020	<p><u>894</u> Hearing held on 7/21/2020. (RE: related document(s)<u>808</u> Motion to compel Production by the Debtor, filed by Creditor Committee Official Committee of Unsecured Creditors.) (Appearances: J. Morris, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and A. Chiarello for Acis; T. Mascherin for Redeemer Committee; M. Lynn and J. Bonds for J. Dondero; L. Drawhorn for NexPoint funds and MGM; P. Keiffer for Atlas; S. Topetzes and J. Wright for Highland Capital Management Fund Advisors, L.P. and other funds; T. Stratford for CCS Medical; R. Matsumura and M. Maloney for HCLOF; J. Kane for CLO Holdco.; J. Slade for NexBank; K. Preston for certain employees sued by Acis. Nonevidentiary hearing. Motion granted in substantial part, but with special privilege review protections granted as to the three lawyer custodians, as to CCS Medical and MGM communications, and as to Atlass communications with outside law firms. Counsel to submit order.) (Edmond, Michael) (Entered: 07/24/2020)</p>
07/21/2020	<p><u>895</u> Hearing held on 7/21/2020. (RE: related document(s)<u>810</u> Motion for protective order (Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034), filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Morris, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and A. Chiarello for Acis; T. Mascherin for Redeemer Committee; M. Lynn and J. Bonds for J. Dondero; L. Drawhorn for NexPoint funds and MGM; P. Keiffer for Atlas; S. Topetzes and J. Wright for Highland Capital Management Fund Advisors, L.P. and other funds; T. Stratford for CCS Medical; R. Matsumura and M. Maloney for HCLOF; J. Kane for CLO Holdco.; J. Slade for NexBank; K. Preston for certain employees sued by Acis. Nonevidentiary hearing. Motion denied in substantial part, but with special privilege review protections granted as to the three lawyer custodians, as to CCS Medical and MGM, and as to Atlass communications with outside law firms. Counsel to submit order.) (Edmond, Michael) (Entered: 07/24/2020)</p>
07/21/2020	<p><u>896</u> Hearing held on 7/21/2020. (RE: related document(s)<u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.) (Appearances: J. Morris, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R.</p>

	Patel and A. Chiarello for Acis; T. Mascherin for Redeemer Committee; M. Lynn and J. Bonds for J. Dondero; L. Drawhorn for NexPoint funds and MGM; P. Keiffer for Atlas; S. Topetzes and J. Wright for Highland Capital Management Fund Advisors, L.P. and other funds; T. Stratford for CCS Medical; R. Matsumura and M. Maloney for HCLOF; J. Kane for CLO Holdco.; J. Slade for NexBank; K. Preston for certain employees sued by Acis. Nonevidentiary hearing. Scheduling discussed, including that there will be a setting on 9/17/20 on the objections to Aciss proof of claim for arguing certain issues of law and, perhaps, narrow issues for trial. Counsel to submit an interim scheduling order that memorializes dicussions.) (Edmond, Michael) (Entered: 07/24/2020)
07/22/2020	<u>884</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 6/1/2020 to 6/30/2020, Fee: \$21,242.00, Expenses: \$343.69. Filed by Attorney Holland N. O'Neil Objections due by 8/12/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
07/22/2020	<u>885</u> INCORRECT ENTRY: EVENT CODE. Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery) Modified on 7/22/2020 (Rielly, Bill).
07/22/2020	<u>886</u> Motion to extend time to assume or reject unexpired nonresidential real property lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery)
07/22/2020	<u>887</u> Notice of hearing (<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Status Conference to be held on 8/14/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
07/22/2020	<u>888</u> Request for transcript regarding a hearing held on 7/21/2020. The requested turn-around time is daily. (Edmond, Michael)
07/22/2020	<u>889</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u> , (Annable, Zachery)
07/22/2020	<u>890</u> Certificate of service re: <i>Documents Served on July 17, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020. filed by Debtor Highland Capital Management, L.P., <u>869</u> Reply to (related document(s): <u>839</u> Response filed by Creditor Committee Official Committee of Unsecured Creditors) (<i>Debtor's Reply to the Committee's Response to the Debtor's Discovery Motion</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>870</u> Declaration re: (<i>Declaration of John A. Morris in Further Support of the Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs</i>). filed by Debtor Highland Capital Management, L.P., <u>871</u> Declaration re: <i>First Supplemental Declaration of Alexander McGeoch in Support of Debtor's Application for an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>604</u> Application to

	<p><i>employ Hunton Andrews Kurth LLP as Special Counsel (Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date)). filed by Interested Party Hunton Andrews Kurth LLP, Spec. Counsel Hunton Andrews Kurth LLP, <u>873</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020.). Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>868</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i></p>
07/23/2020	<p><u>891</u> Objection to claim(s) 3 of Creditor(s) ACIS Capital Management L.P. and ACIS Capital Management GP, LLC.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)</p>
07/23/2020	<p><u>892</u> Certificate of service re: <i>Amended Ninth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 Through June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>879</u> Amended application for compensation <i>Amended Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020 (amended to include Exhibit)</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$818,786.50, Expenses: \$3,205.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 8/10/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
07/23/2020	<p><u>893</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>882</u> Order granting motion to appear pro hac vice adding Mark M. Maloney for Highland CLO Funding, Ltd. (related document <u>857</u>) Entered on 7/21/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 07/23/2020. (Admin.)</p>
07/24/2020	<p><u>897</u> Transcript regarding Hearing Held 07/21/20 RE: DOCS 808 and 810. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/22/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Transcripts Plus, Inc., Telephone number 215-862-1115 CourtTranscripts@aol.com. (RE: related document(s) 896 Hearing held on 7/21/2020. (RE: related document(s)<u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.) (Appearances: J. Morris, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and A. Chiarello for Acis; T. Mascherin for Redeemer Committee; M. Lynn and J. Bonds for J. Dondero; L. Drawhorn for NexPoint funds and MGM; P. Keiffer for Atlas; S. Topetzes and J. Wright for Highland Capital Management Fund Advisors, L.P. and other funds; T. Stratford for CCS Medical; R. Matsumura and M. Maloney for HCLOF; J. Kane for CLO Holdco.; J. Slade for NexBank; K. Preston for certain employees sued by Acis. Nonevidentiary hearing. Scheduling discussed, including that there will be a setting on 9/17/20 on the objections to Aciss proof of claim for arguing certain issues of law and, perhaps, narrow issues for trial. Counsel to submit an interim scheduling order that memorializes dicussions.)). Transcript to be made available to the public on 10/22/2020. (Hartmann, Karen)</p>
07/24/2020	<p><u>898</u> Certificate of service re: 1) <i>Summary Cover Sheet and Eighth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from June 1, 2020 to and Including June 30, 2020; and 2) Summary Cover Sheet and Second Interim Fee Application of FTI Consulting, Inc. as Financial Advisor for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from March 1, 2020 Through and Including May 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>877</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of</i></p>

	<p><i>Expenses of Sidley Austin, LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 6/30/2020, Fee: \$493,788.96, Expenses: \$5,759.29. Filed by Objections due by 8/10/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)</p>
07/27/2020	<p><u>899</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s)<u>795</u> Application for compensation (<i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i>) for Hayward & Assoc). (Annable, Zachery)</p>
07/27/2020	<p><u>900</u> Certificate of service re: <i>Documents Served on July 22, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>884</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 6/1/2020 to 6/30/2020, Fee: \$21,242.00, Expenses: \$343.69. Filed by Attorney Holland N. O'Neil Objections due by 8/12/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>886</u> Motion to extend time to assume or reject unexpired nonresidential real property lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>887</u> Notice of hearing (<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Status Conference to be held on 8/14/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>889</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
07/28/2020	<p>901 INCORRECT ENTRY: See # <u>902</u> for correction. Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>733</u> Motion for leave to <i>File an Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action</i> (related document(s) <u>687</u> Response, <u>690</u> Objection, <u>692</u> Objection, <u>694</u> Joinder, <u>701</u> Objection) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 7/2/2020. (Attachments: # 1 Exhibit A – Proposed Order # 2 Exhibit B – Reply # 3 Exhibit 1 # 4 Exhibit 2 # 5 Exhibit 3 # 6 Exhibit 4 # 7 Exhibit 5 # 8 Exhibit 6 # 9 Exhibit 7 # 10 Exhibit 8 # 11 Exhibit 9 # 12 Exhibit 10 # 13 Exhibit 11 # 14 Exhibit 12 # 15 Exhibit 13 # 16 Exhibit 14)) Responses due by 8/4/2020. (Ecker, C.) Modified on 7/28/2020 (Ecker, C.).</p>
07/28/2020	<p><u>902</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>733</u> Motion for leave to <i>File an Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action</i> (related document(s) <u>687</u> Response, <u>690</u> Objection, <u>692</u> Objection, <u>694</u> Joinder, <u>701</u> Objection) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 7/2/2020. (Attachments: # 1 Exhibit A – Proposed Order # 2 Exhibit B – Reply # 3 Exhibit 1 # 4 Exhibit 2 # 5 Exhibit 3 # 6 Exhibit 4 # 7 Exhibit 5 # 8 Exhibit 6 # 9 Exhibit 7 # 10 Exhibit 8 # 11 Exhibit 9 # 12 Exhibit 10 # 13 Exhibit 11 # 14 Exhibit 12 # 15 Exhibit 13 # 16 Exhibit 14)) Responses due by 8/4/2020. (Ecker, C.)</p>
07/28/2020	<p><u>903</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>746</u> Motion to file document under seal. Filed by Interested Parties UBS AG</p>

	London Branch , UBS Securities LLC (Ecker, C.)) Responses due by 8/4/2020. (Ecker, C.)
07/28/2020	Receipt Number 00338615, Fee Amount \$30,715.92 (RE: related document(s) <u>821</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd, K). (Entered: 08/10/2020)
07/28/2020	Receipt Number 00338617, Fee Amount \$20,830.29 (RE: related document(s) <u>821</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd, K). (Entered: 08/10/2020)
07/28/2020	Receipt Number 00338616, Fee Amount \$84,062.32 (RE: related document(s) <u>821</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd, K). (Entered: 08/10/2020)
07/30/2020	<u>904</u> Notice of Appearance and Request for Notice <i>Chad Timmons, Emily M. Hahn, Larry R. Boyd</i> by Chad D. Timmons filed by Creditor COLLIN COUNTY TAX ASSESSOR/COLLECTOR. (Timmons, Chad)
07/30/2020	<u>905</u> Amended Debtor-in-possession monthly operating report for filing period May 1, 2020 to May 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>800</u> Operating report). (Annable, Zachery)
07/30/2020	<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order and Schedules 1-7) (Annable, Zachery)
07/30/2020	<u>907</u> Notice of hearing (<i>Notice of Hearing on Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>906</u> Objection to

	<p>claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>906</u>. (Annable, Zachery)</p>
07/31/2020	<p><u>908</u> Response opposed to (related document(s): <u>771</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4) (Patel, Rakhee)</p>
08/03/2020	<p><u>909</u> Agreed Order Granting <u>886</u> Motion to extend deadline to assume or reject unexpired nonresidential real property lease by sixty days. Entered on 8/3/2020. (Okafor, M.)</p>
08/03/2020	<p><u>910</u> Order granting motion for leave to File an Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action (related document # <u>733</u>) Entered on 8/3/2020. (Okafor, M.)</p>
08/03/2020	<p><u>911</u> Order granting motion to seal documents (related document # <u>746</u>) Entered on 8/3/2020. (Okafor, M.)</p>
08/03/2020	<p><u>912</u> Order directing mediation (RE: related document(s)<u>3</u> Document filed by Debtor Highland Capital Management, L.P.). Entered on 8/3/2020 (Okafor, M.)</p>
08/03/2020	<p><u>913</u> Debtor-in-possession monthly operating report for filing period June 1, 2020 to June 30, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
08/03/2020	<p><u>914</u> Motion for leave [<i>CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i>] (related document(s) <u>808</u> Motion to compel, <u>846</u> Objection, <u>872</u> Response, 894 Hearing held) Filed by Creditor CLO Holdco, Ltd. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Kane, John)</p>

08/04/2020	<p><u>915</u> Joinder by <i>NexPoint RE Entities' Joinder to CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i> filed by Interested Parties NexPoint Hospitality Trust, NexPoint Multifamily Capital Trust, Inc., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Finance Inc., NexPoint Real Estate Partners, LLC, NexPoint Residential Trust, Inc., Nexpoint Real Estate Capital, LLC, VineBrook Homes, Trust, Inc. (RE: related document(s)<u>914</u> Motion for leave [<i>CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i>] (related document(s) <u>808</u> Motion to compel, <u>846</u> Objection, <u>872</u> Response, 894 Hearing held)). (Drawhorn, Lauren)</p>
08/04/2020	<p><u>916</u> Certificate of service re: 1) <i>Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims; and 2) Notice of Hearing on Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7) filed by Debtor Highland Capital Management, L.P., <u>907</u> Notice of hearing (<i>Notice of Hearing on Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation;</p>

	<p>Moody's Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>906</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
08/05/2020	<p><u>917</u> Application for compensation (<i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 5/1/2020 to 5/31/2020, Fee: \$17,667.50, Expenses: \$37.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A May 2020 Invoice) (Annable, Zachery)</p>
08/05/2020	<p><u>918</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,5). (Attachments: # <u>1</u> Exhibit) (Hoffman, Juliana)</p>
08/05/2020	<p><u>919</u> Certificate of service re: <i>1) Agreed Order Extending Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease by Sixty Days; and 2) Order Directing Mediation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>909</u> Agreed Order Granting <u>886</u> Motion to extend deadline to assume or reject unexpired nonresidential real property lease by sixty days. Entered on 8/3/2020. (Okafor, M.), <u>912</u> Order directing mediation (RE: related document(s)<u>3</u> Document filed by Debtor Highland Capital Management, L.P.). Entered on 8/3/2020 (Okafor, M.)). (Kass, Albert)</p>
08/05/2020	<p><u>920</u> Certificate of No Objection (Amended) filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>918</u> Certificate (generic)). (Hoffman, Juliana)</p>
08/05/2020	<p><u>921</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to June 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN</p>

	PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.). (Annable, Zachery)
08/06/2020	<u>922</u> Application for compensation <i>Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 7/1/2020 to 7/31/2020, Fee: \$6,264.50, Expenses: \$0.00. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
08/06/2020	<u>923</u> Notice of Appearance and Request for Notice by Jared M. Slade filed by Interested Party NexBank. (Slade, Jared)
08/06/2020	<u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # <u>1</u> Exhibit A – Invoices # <u>2</u> Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland)
08/06/2020	<u>925</u> Certificate of service re: <i>re: 1) Cover Sheet and Sixth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from May 1, 2020 Through May 31, 2020; and 2) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>917</u> Application for compensation (<i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 5/1/2020 to 5/31/2020, Fee: \$17,667.50, Expenses: \$37.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A May 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <u>921</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to June 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/06/2020	<u>926</u> Withdrawal of claim(s) Claim has been satisfied. Claim: 9 Filed by Creditor Gray Reed & McGraw LLP. (Brookner, Jason)
08/07/2020	<u>927</u> Joinder by filed by Interested Party NexBank (RE: related document(s) <u>914</u> Motion for leave [<i>CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i>] (related document(s) <u>808</u> Motion to compel, <u>846</u> Objection, <u>872</u> Response, 894 Hearing held)). (Slade, Jared)
08/07/2020	<u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # <u>1</u> Exhibit 18 # <u>2</u> Exhibit 19) (Annable, Zachery)
08/07/2020	<u>929</u> Notice of hearing (<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital

	Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19)). Status Conference to be held on 9/29/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
08/07/2020	<u>930</u> Response opposed to (related document(s): <u>914</u> Motion for leave [<i>CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i>] (related document(s) <u>808</u> Motion to compel, <u>846</u> Objection, <u>872</u> Response, 894 Hearing held) filed by Creditor CLO Holdco, Ltd.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Attachments: # <u>1</u> Exhibit A) (Montgomery, Paige)
08/07/2020	<u>931</u> Application for compensation (<i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$18,025.00, Expenses: \$452.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A June 2020 Invoice) (Annable, Zachery)
08/07/2020	<u>932</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEES OBJECTION TO THE PROOF OF CLAIM OF UBS AG, LONDON BRANCH AND UBS SECURITIES, LLC</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Proposed Order Proposed Order Granting Motion to Seal) (Platt, Mark)
08/07/2020	<u>933</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit Exhibit 1 (slip page – to be filed under seal upon order from Court)) # <u>2</u> Exhibit Exhibit 2 (slip page – to be filed under seal upon order from Court) # <u>3</u> Exhibit Exhibit 3 (slip page – to be filed under seal upon order from Court) # <u>4</u> Exhibit Exhibit 4 # <u>5</u> Exhibit Exhibit 5 # <u>6</u> Exhibit Exhibit 6 (slip page – to be filed under seal upon order from Court) # <u>7</u> Exhibit Exhibit 7 (slip page – to be filed under seal upon order from Court) # <u>8</u> Exhibit Exhibit 8 # <u>9</u> Exhibit Exhibit 9 (slip page – to be filed under seal upon order from Court) # <u>10</u> Exhibit Exhibit 10 # <u>11</u> Exhibit Exhibit 11 # <u>12</u> Exhibit Exhibit 12 # <u>13</u> Exhibit Exhibit 13 # <u>14</u> Exhibit Exhibit 14 # <u>15</u> Exhibit Exhibit 15 # <u>16</u> Exhibit Exhibit 16 (slip page – to be filed under seal upon order from Court) # <u>17</u> Exhibit Exhibit 17 # <u>18</u> Exhibit Exhibit 18 # <u>19</u> Exhibit Exhibit 19 # <u>20</u> Exhibit Exhibit 20 (slip page – to be filed under seal upon order from Court) # <u>21</u> Exhibit Exhibit 21 (slip page – to be filed under seal upon order from Court) # <u>22</u> Exhibit Exhibit 22 (slip page – to be filed under seal upon order from Court)) (Platt, Mark)
08/10/2020	<u>934</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 6/30/2020, Fee: \$328,185.72, Expenses: \$440.33. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 8/31/2020. (Hoffman, Juliana)
08/11/2020	<u>935</u> Order on Motion for Clarification of Ruling and the Joinders Thereto (RE: related document(s) <u>914</u> Motion for leave filed by Creditor CLO Holdco, Ltd., <u>915</u> Joinder filed by Interested Party NexPoint Real Estate Finance Inc., Interested Party Nexpoint Real Estate Capital, LLC, Interested Party NexPoint Residential Trust, Inc., Interested Party NexPoint Hospitality Trust, Interested Party NexPoint Real Estate Partners, LLC, Interested Party NexPoint Multifamily Capital Trust, Inc., Interested Party VineBrook Homes, Trust, Inc., Interested Party NexPoint Real Estate Advisors, L.P., Interested Party NexPoint Real Estate Advisors II, L.P., Interested Party NexPoint Real Estate Advisors III, L.P., Interested Party NexPoint Real Estate Advisors IV, L.P., Interested Party NexPoint Real Estate Advisors V, L.P., Interested Party NexPoint Real Estate Advisors VI, L.P., Interested Party NexPoint Real Estate Advisors VII, L.P., Interested Party NexPoint Real Estate Advisors VIII, L.P., <u>927</u> Joinder filed by Interested Party NexBank). Entered on 8/11/2020 (Rielly, Bill)
08/11/2020	<u>936</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from July 1, 2020 through July 31, 2020</i> for

	Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, Fee: \$739,976.00, Expenses: \$1,189.12. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/1/2020. (Pomerantz, Jeffrey)
08/11/2020	<u>937</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>879</u> Amended application for compensation <i>Amended Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020 (amended t)</i> . (Pomerantz, Jeffrey)
08/11/2020	<u>938</u> Certificate of service re: 1) <i>Cover Sheet and Ninth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from July 1, 2020 Through July 31, 2020</i> ; and 2) <i>Cover Sheet and Second Interim Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 Through July 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>922</u> Application for compensation <i>Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 7/1/2020 to 7/31/2020, Fee: \$6,264.50, Expenses: \$0.00. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP). (Kass, Albert)
08/11/2020	<u>939</u> Certificate of service re: 1) <i>Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ; and 2) <i>Notice of Status Conference; to be Held on September 29, 2020 at 1:30 p.m. (Central Time)</i> ; and 3) <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19) filed by Debtor Highland Capital Management, L.P., <u>929</u> Notice of hearing (<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19)). Status Conference to be held on 9/29/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>931</u> Application for compensation (<i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$18,025.00, Expenses: \$452.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A June 2020 Invoice) filed by Other Professional Hayward & Associates PLLC). (Kass, Albert)
08/11/2020	<u>940</u> Certificate of service re: 1) <i>Webex Meeting Invitation to participate electronically in the hearing on Friday, August 14, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan</i> ; 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing</i> ; and 3) <i>Summary Cover Sheet and Eighth Monthly Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period From June 1, 2020 to and Including June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related

	document(s) <u>934</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 6/30/2020, Fee: \$328,185.72, Expenses: \$440.33. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 8/31/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
08/12/2020	<u>941</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>877</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 6/30/2020, Fee: \$493,78). (Hoffman, Juliana)
08/12/2020	<u>942</u> Order resolving discovery motions and objections thereto (related document <u>808</u> and <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management,) Entered on 8/12/2020. (Okafor, M.). Modified linkage on 10/1/2020 (Okafor, M.).</i>
08/12/2020	<u>943</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2020 through June 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Annable, Zachery)
08/12/2020	<u>944</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
08/12/2020	<u>945</u> Disclosure statement filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A—Plan)(Annable, Zachery)
08/13/2020	<u>946</u> Certificate of No Objection filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>884</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> for Foley Garder). (O'Neil, Holland)
08/13/2020	<u>947</u> Joint Motion to continue hearing on (related documents <u>771</u> Objection to claim) (<i>Joint Motion to Continue Status Conference</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
08/13/2020	<u>948</u> Motion to file document under seal. (<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal of the Debtor's Plan of Reorganization and Disclosure Statement</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
08/13/2020	<u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
08/13/2020	<u>950</u> Order granting motion to seal documents (related document # <u>932</u>) Entered on 8/13/2020. (Okafor, M.)
08/13/2020	<u>951</u> Order granting joint motion to continue hearing on (related document # <u>947</u>) (related documents Objection to claim) Status Conference to be held on 8/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. Entered on 8/13/2020. (Okafor, M.)

08/13/2020	<u>952</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>949</u> , (Annable, Zachery)
08/13/2020	<u>953</u> SEALED document regarding: REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUNDS AND THE CRUSADER FUNDS' OBJECTION TO THE PROOF OF CLAIM OF UBS AG, LONDON BRANCH AND UBS SECURITIES, LLC AND JOINDER IN THE DEBTOR'S OBJECTION per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>950</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit Exhibit 1 – Original Synthetic Warehouse Agreement # <u>2</u> Exhibit Exhibit 2 Original Engagement Ltr. # <u>3</u> Exhibit Exhibit 3 Original Cash Warehouse Agreement # <u>4</u> Exhibit Exhibit 6 Expert Report of Louis G. Dudney # <u>5</u> Exhibit Exhibit 7 March 20, 2009 Termination Settlement and Release Agreement # <u>6</u> Exhibit Exhibit 9 UBS and Crusader Fund Settlement Agreement # <u>7</u> Exhibit Exhibit 16 Unredacted version of UBS's Second Amended Complaint # <u>8</u> Exhibit Exhibit 20 UBS's Pre-Trial Brief ISO Bifurcation # <u>9</u> Exhibit Exhibit 21 UBS and Credit Strategies Settlement Agreement # <u>10</u> Exhibit Exhibit 22 Crusader Fund scheme of Arrangement and Joint Plan of Distribution) (Platt, Mark)
08/13/2020	<u>954</u> Amended Notice of hearing (<i>Amended Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Status Conference to be held on 8/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
08/13/2020	<u>955</u> Order granting motion to seal documents (related document # <u>948</u>) Entered on 8/13/2020. (Okafor, M.)
08/13/2020	<u>956</u> SEALED document regarding: Plan of Reorganization of Highland Capital Management, L.P. per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>955</u> Order on motion to seal). (Annable, Zachery)
08/13/2020	<u>957</u> SEALED document regarding: Disclosure Statement for the Plan of Reorganization of Highland Capital Management, L.P. per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>955</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit A—Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
08/13/2020	<u>958</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>935</u> Order on Motion for Clarification of Ruling and the Joinders Thereto (RE: related document(s) <u>914</u> Motion for leave filed by Creditor CLO Holdco, Ltd., <u>915</u> Joinder filed by Interested Party NexPoint Real Estate Finance Inc., Interested Party Nexpoint Real Estate Capital, LLC, Interested Party NexPoint Residential Trust, Inc., Interested Party NexPoint Hospitality Trust, Interested Party NexPoint Real Estate Partners, LLC, Interested Party NexPoint Multifamily Capital Trust, Inc., Interested Party VineBrook Homes, Trust, Inc., Interested Party NexPoint Real Estate Advisors, L.P., Interested Party NexPoint Real Estate Advisors II, L.P., Interested Party NexPoint Real Estate Advisors III, L.P., Interested Party NexPoint Real Estate Advisors IV, L.P., Interested Party NexPoint Real Estate Advisors V, L.P., Interested Party NexPoint Real Estate Advisors VI, L.P., Interested Party NexPoint Real Estate Advisors VII, L.P., Interested Party NexPoint Real Estate Advisors VIII, L.P., <u>927</u> Joinder filed by Interested Party NexBank). Entered on 8/11/2020) No. of Notices: 2. Notice Date 08/13/2020. (Admin.)
08/14/2020	<u>959</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>830</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 5/1/2020 to 5/31/2020, Fee: \$223,330.68, Expenses: \$1,874.65.). (Hoffman, Juliana)

08/14/2020	<u>960</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26.). (Hoffman, Juliana)
08/14/2020	<u>961</u> Certificate of service re: <i>Cover Sheet and Tenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from July 1, 2020 through July 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>936</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from July 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, Fee: \$739,976.00, Expenses: \$1,189.12. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/1/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/14/2020	<u>962</u> Certificate of service re: 1) <i>Order Resolving Discovery Motions and Objections Thereto</i> ; and 2) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2020 Through June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>942</u> Order resolving discovery motions and objections thereto (related document <u>808</u>) Entered on 8/12/2020. (Okafor, M.), <u>943</u> <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2020 through June 30, 2020</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/17/2020	<u>963</u> Motion to file document under seal. Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Chiarello, Annmarie)
08/18/2020	<u>964</u> Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—Invoices) (Annable, Zachery)
08/18/2020	<u>965</u> Order granting motion to seal documents (related document # <u>963</u>) Entered on 8/18/2020. (Okafor, M.)
08/18/2020	<u>966</u> SEALED document regarding: email correspondence produced by Highland Capital Management, L.P. in connection with Acis's bankruptcy cases and bates labeled CONFIDENTIAL Highland0035395– Highland0035405 per court order filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>965</u> Order on motion to seal). (Chiarello, Annmarie)
08/18/2020	<u>967</u> Certificate of service re: <i>Documents Served on August 13, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>947</u> Joint Motion to continue hearing on (related documents <u>771</u> Objection to claim) (<i>Joint Motion to Continue Status Conference</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>948</u> Motion to file document under seal. (<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal of the Debtor's Plan of Reorganization and Disclosure Statement</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>951</u> Order granting joint motion to continue hearing on (related document <u>947</u>) (related documents Objection to claim) Status Conference to be held on

	<p>8/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. Entered on 8/13/2020. (Okafor, M.), <u>952</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>820</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>949</u>, filed by Debtor Highland Capital Management, L.P., <u>954</u> Amended Notice of hearing (<i>Amended Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Status Conference to be held on 8/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>955</u> Order granting motion to seal documents (related document <u>948</u>) Entered on 8/13/2020. (Okafor, M.)). (Kass, Albert)</p>
08/19/2020	<p><u>968</u> Hearing held on 8/19/2020. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.) (Edmond, Michael)</p>
08/19/2020	<p><u>969</u> Application for compensation <i>Sidley Austin, LLP's Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 7/1/2020 to 7/31/2020, Fee: \$531,094.32, Expenses: \$10,470.96. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 9/9/2020. (Hoffman, Juliana)</p>
08/19/2020	<p><u>970</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>868</u> Objection to claim). (Annable, Zachery)</p>
08/19/2020	<p><u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020. (Pomerantz, Jeffrey)</p>
08/19/2020	<p><u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020. (Pomerantz, Jeffrey)</p>
08/19/2020	<p><u>973</u> Support/supplemental document (<i>Notice of Filing of Executed Signature Pages to Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)</p>
08/19/2020	<p><u>974</u> Support/supplemental document (<i>Notice of Filing of Executed Signature Pages to Disclosure Statement for the Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement). (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)</p>

08/19/2020	<p><u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # <u>1</u> Exhibit A-1 # <u>2</u> Exhibit A-2 # <u>3</u> Exhibit B) (Annable, Zachery)</p>
08/19/2020	<p><u>976</u> Notice of hearing (<i>Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>964</u> and for <u>831</u> and for <u>975</u> and for <u>972</u> and for <u>971</u> and for <u>924</u> and for <u>883</u>, (Annable, Zachery)</p>
08/20/2020	<p><u>977</u> Amended Notice of hearing (<i>Amended Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19)). Status Conference to be held on 10/6/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)</p>
08/20/2020	<p><u>978</u> Order approving joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s)<u>970</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/20/2020 (Okafor, M.)</p>

08/20/2020	<p><u>979</u> Certificate of service re: <i>1) Webex Meeting Invitation to participate electronically in the hearing on Wednesday, August 19, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan; 2) Instructions for any counsel and parties who wish to participate in the Hearing; and 3) Notice of and Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 Through June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>964</u> Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—Invoices) filed by Other Professional Hayward & Associates PLLC). (Kass, Albert)</p>
08/20/2020	<p><u>980</u> Certificate of service re: <i>Documents Served on August 19, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>969</u> Application for compensation <i>Sidley Austin, LLP's Ninth Monthly Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 7/1/2020 to 7/31/2020, Fee: \$531,094.32, Expenses: \$10,470.96.</i> Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 9/9/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>970</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>868</u> Objection to claim). filed by Debtor Highland Capital Management, L.P., <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020. filed by Debtor Highland Capital Management, L.P., <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020. filed by Consultant Mercer (US) Inc., <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A—1 # 2 Exhibit A—2 # 3 Exhibit B), <u>976</u> Notice of hearing (<i>Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21.</i> Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26.</i> Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00,</p>

	<p>Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>964</u> and for <u>831</u> and for <u>975</u> and for <u>972</u> and for <u>971</u> and for <u>924</u> and for <u>883</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
08/21/2020	<u>981</u> Certificate (Affidavit of Service) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
08/21/2020	<u>982</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
08/21/2020	<u>983</u> Agreed Scheduling Order and Order setting hearing on any timely filed Summary Judgment Motion and Summary Judgment Response (RE: related document(s) <u>771</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u> , Entered on 8/21/2020 (Okafor, M.) Modified text on 8/21/2020 (Okafor, M.).
08/21/2020	<u>984</u> Motion to appear pro hac vice for Tracy M. O'Steen. Fee Amount \$100 Filed by Interested Party Integrated Financial Associates, Inc. (Bryant, M.)
08/23/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28037405, amount \$ 100.00 (re: Doc# <u>984</u>). (U.S. Treasury)
08/23/2020	<u>985</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>978</u> Order approving joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>970</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/20/2020 (Okafor, M.) No. of Notices: 1. Notice Date 08/23/2020. (Admin.)
08/24/2020	<u>986</u> Order approving joint stipulation regarding modification to order approving ordinary course professionals for Robert Half Legal (RE: related document(s) <u>982</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/24/2020 (Okafor, M.)
08/24/2020	<u>987</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). (Annable, Zachery)
08/24/2020	<u>988</u> Support/supplemental document <i>Supplement to Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> filed by

	Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere). (O'Neil, Holland)
08/25/2020	<u>989</u> Order granting motion to appear pro hac vice adding Tracy M. O'Steen for Integrated Financial Associates, Inc. (related document # <u>984</u>) Entered on 8/25/2020. (Okafor, M.)
08/25/2020	<u>990</u> Order approving second joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>987</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/25/2020 (Okafor, M.)
08/25/2020	<u>991</u> Certificate of service re: <i>1) Amended Notice of Status Conference; to be Held on October 6, 2020 at 1:30 p.m. (Central Time); and 2) Order Approving Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>977</u> Amended Notice of hearing (<i>Amended Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19)). Status Conference to be held on 10/6/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>978</u> Order approving joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>970</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/20/2020 (Okafor, M.)). (Kass, Albert)
08/25/2020	<u>992</u> Certificate of service re: <i>1) Affidavit of Service of Karina Yee re: Action by Written Consent of Stockholders in Lieu of Special Meeting (Cornerstone Healthcare Group Holding, Inc.); 2) Joint Stipulation Regarding Modification to Order Approving Ordinary Course Professionals for Robert Half Legal; and 3) Agreed Scheduling Order Regarding Objections to Proof of Claim of Acis Capital Management, L.P. and Acis Capital Management GP, LLC</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>981</u> Certificate (Affidavit of Service) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>982</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>983</u> Agreed Scheduling Order and Order setting hearing on any timely filed Summary Judgment Motion and Summary Judgment Response (RE: related document(s) <u>771</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u> , Entered on 8/21/2020 (Okafor, M.) Modified text on 8/21/2020 (Okafor, M.)). (Kass, Albert)
08/26/2020	<u>993</u> Request for transcript regarding a hearing held on 8/19/2020. The requested turn-around time is daily. (Edmond, Michael)
08/26/2020	<u>994</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor Paul N. Adkins . (Dugan, S.) Filed by Creditor Paul N. Adkins (related document(s) <u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund

	<p>Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7) filed by Debtor Highland Capital Management, L.P.). (COURT NOTE: Signature of filer not included. Amended response with signature requested) (Dugan, S.)</p>
08/26/2020	<p><u>995</u> Adversary case 20–03105. Complaint by Highland Capital Management, L.P. against Hunter Mountain Investment Trust. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). 91 (Declaratory judgment). (Annable, Zachery)</p>
08/26/2020	<p><u>996</u> Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund – Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)</p>
08/26/2020	<p><u>997</u> Motion to file document under seal.(With the Objection to the Proof of Claim Filed by Redeemer Committee of the Highland Crusader Fund) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Attachments: # <u>1</u> Proposed Order Ex A) (Sosland, Martin)</p>
08/26/2020	<p><u>998</u> Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972–786–3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)</p>
08/27/2020	

	<u>999</u> Motion to file document under seal. (<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
08/27/2020	<u>1000</u> Certificate of service re: 1) <i>Order Approving Joint Stipulation Regarding Modification to Order Approving Ordinary Course Professionals for Robert Half Legal</i> ; 2) <i>Second Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> ; and 3) <i>Supplement to the Second Interim Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 Through July 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>986</u> Order approving joint stipulation regarding modification to order approving ordinary course professionals for Robert Half Legal (RE: related document(s) <u>982</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/24/2020 (Okafor, M.), <u>987</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). filed by Debtor Highland Capital Management, L.P., <u>988</u> Support/supplemental document <i>Supplement to Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere). (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP). (Kass, Albert)
08/27/2020	<u>1001</u> Certificate of service re: <i>Order Approving Second Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>990</u> Order approving second joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>987</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/25/2020 (Okafor, M.)). (Kass, Albert)
08/27/2020	<u>1002</u> Response unopposed to (related document(s): <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Chiarello, Annmarie)
08/27/2020	<u>1003</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>989</u> Order granting motion to appear pro hac vice adding Tracy M. O'Steen for Integrated Financial Associates, Inc. (related document <u>984</u>) Entered on 8/25/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 08/27/2020. (Admin.)
08/27/2020	<u>1004</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>990</u> Order approving second joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>987</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/25/2020 (Okafor, M.)) No. of Notices: 1. Notice Date 08/27/2020. (Admin.)
08/28/2020	<u>1005</u> Order granting motion to seal certain of the exhibits to proofs of claim 190 and 191 of UBS Securities and UBS AG, London Branch (related document # <u>999</u>) Entered on 8/28/2020. (Okafor, M.)
08/31/2020	<u>1006</u> Amended Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor Paul N. Adkins . (Rielly, Bill)

08/31/2020	<u>1007</u> Amended Notice of hearing (<i>Amended Notice of Hearing on Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020.). Hearing to be held on 10/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>868</u> , (Annable, Zachery)
08/31/2020	<u>1008</u> Adversary case 20-03107. Complaint by Highland Capital Management, L.P. against Patrick Daugherty. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
08/31/2020	<u>1009</u> SEALED document regarding: Exhibit 20 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
08/31/2020	<u>1010</u> SEALED document regarding: Exhibit 21 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
08/31/2020	<u>1011</u> SEALED document regarding: Exhibit 22 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
08/31/2020	<u>1012</u> SEALED document regarding: Exhibit 23 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
08/31/2020	<u>1013</u> SEALED document regarding: Exhibit 24 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
09/01/2020	<u>1014</u> Debtor-in-possession monthly operating report for filing period July 1, 2020 to July 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
09/01/2020	<u>1015</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). (Annable, Zachery)
09/01/2020	<u>1016</u> Certificate No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>917</u> Application for compensation (<i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i>) for Hayward & Associate). (Annable, Zachery)
09/01/2020	<u>1017</u> Certificate No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>931</u> Application for compensation (<i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i>) for Hayward & Assoc). (Annable, Zachery)
09/01/2020	<u>1018</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>934</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor,

	Period: 6/1/2020 to 6/30/2020, Fee: \$328,185.72, Expenses: \$440.33.). (Hoffman, Juliana)
09/01/2020	<u>1019</u> Objection to (related document(s): <u>906</u> Objection to claim Filed by Debtor Highland Capital Management, L.P. filed by Creditor COLLIN COUNTY TAX ASSESSOR/COLLECTOR. (Lopez, Paul). MODIFIED to correct linkage on 9/2/2020 (Ecker, C.)).
09/01/2020	<u>1020</u> Certificate of service re: <i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>999</u> Motion to file document under seal. (<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/02/2020	<u>1021</u> Order approving third joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc (RE: related document(s) <u>1015</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 9/2/2020 (Okafor, M.)
09/02/2020	<u>1022</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>936</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from July 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, F). (Pomerantz, Jeffrey)
09/02/2020	<u>1023</u> Certificate of service re: <i>Order Granting Debtor's Motion for Entry of an Order Authorizing Filing Under Seal Certain of the Exhibits to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1005</u> Order granting motion to seal certain of the exhibits to proofs of claim 190 and 191 of UBS Securities and UBS AG, London Branch (related document <u>999</u>) Entered on 8/28/2020. (Okafor, M.)). (Kass, Albert)
09/03/2020	<u>1024</u> Certificate of service re: <i>Amended Notice of Hearing on Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.; to be Held on October 14, 2020 at 1:30 PM (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1007</u> Amended Notice of hearing (<i>Amended Notice of Hearing on Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020.). Hearing to be held on 10/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>868</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/04/2020	<u>1025</u> Motion to compromise controversy with Carey International, Inc.. (<i>Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. Objections due by 9/28/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B—Settlement Agreement) (Annable, Zachery)
09/04/2020	<u>1026</u> Objection to (related document(s): <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
09/04/2020	<u>1027</u> Certificate of service re: <i>Third Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed

	by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 1015 Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 868 Objection to claim). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/05/2020	1028 Witness and Exhibit List for Hearing on September 10, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 831 Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,5, 883 Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26., 924 Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, 949 Motion to extend or limit the exclusivity period (RE: related document(s) 820 Order on motion to extend/shorten time), 964 Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorn, 971 Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 202</i> , 972 Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020 for Mercer (US)</i> , 975 Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for</i>). (Hayward, Melissa)
09/08/2020	1029 Certificate of service re: <i>Order Approving Third Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 1021 Order approving third joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc (RE: related document(s) 1015 Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 9/2/2020 (Okafor, M.)). (Kass, Albert)
09/08/2020	1030 Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to July 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 176 ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
09/09/2020	1031 Motion to appear pro hac vice for James E. O'Neill. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
09/09/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28083098, amount \$ 100.00 (re: Doc# 1031). (U.S. Treasury)
09/09/2020	1032 Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on September 10, 2020 at 2:30 p.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 976 Notice of hearing (<i>Omnibus Notice of Hearing on Second Interim</i>

	<p><i>Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>964</u> and for <u>831</u> and for <u>975</u> and for <u>972</u> and for <u>971</u> and for <u>924</u> and for <u>883</u>.). (Annable, Zachery)</p>
09/09/2020	<u>1033</u> Order granting motion to seal documents (related document # <u>997</u>) Entered on 9/9/2020. (Okafor, M.)
09/09/2020	<u>1034</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for</i>). (Annable, Zachery)
09/09/2020	<u>1035</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US)). (Annable, Zachery)
09/09/2020	<u>1036</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020</i>

	<i>through July 31, 202).</i> (Annable, Zachery)
09/09/2020	<u>1037</u> Certificate No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>964</u> Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorn). (Annable, Zachery)
09/09/2020	<u>1038</u> Certificate of service re: <i>Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1025</u> Motion to compromise controversy with Carey International, Inc.. (<i>Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. Objections due by 9/28/2020. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Settlement Agreement) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/10/2020	<u>1039</u> SEALED document regarding: Exhibits B and C to the Objection to the Proof of Claim Filed by Redeemer Committee of the Highland Crusader Fund per court order filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1033</u> Order on motion to seal). (Attachments: # <u>1</u> Part 2 # <u>2</u> Part 3 # <u>3</u> Part 4 # <u>4</u> Part 5 # <u>5</u> Part 6) (Sosland, Martin)
09/10/2020	<u>1040</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>969</u> Application for compensation <i>Sidley Austin, LLP's Ninth Monthly Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 7/1/2020 to 7/31/2020, Fee: \$531</i>). (Hoffman, Juliana)
09/10/2020	<u>1041</u> Amended Notice (<i>Amended Notice of Agenda of Matters Scheduled for Hearing on September 10, 2020 at 2:30 p.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>976</u> Notice of hearing (<i>Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation

	<p><i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020 for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., 975 Application for compensation (Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for 964 and for 831 and for 975 and for 972 and for 971 and for 924 and for 883,). (Annable, Zachery)</i></p>
<p>09/10/2020</p>	<p>1061 Hearing held on 9/10/2020., Hearing continued (RE: related document(s)949 Motion to extend or limit the exclusivity period (RE: related document(s)820 Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.,) Continued Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for 949, (Appearances: J. Pomeranz, J. Morris, and J. O'Neill for Debtor; M. Clemente for Official Unsecured Creditors Committee; R. Patel and B. Shaw for Acis; A. Clubok for UBS; T. Masherin, M. Hankin and M. Platt for Redeemer Committee; B. Assing for J. Dondero; L. Lambert for UST. Evidentiary hearing. Motion continued to 9/17/20 at 9:30 am.) (Edmond, Michael) (Entered: 09/14/2020)</p>
<p>09/10/2020</p>	<p>1062 Hearing held on 9/10/2020. (RE: related document(s)906 Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.,) (Appearances: J. Pomeranz, J. Morris, and J. O'Neill for Debtor; M. Clemente for Official Unsecured Creditors Committee; R. Patel and B. Shaw for Acis; A. Clubok for UBS; T. Masherin, M. Hankin and M. Platt for Redeemer Committee; B. Assing for J. Dondero; L. Lambert for UST. Nonevidentiary hearing. Based on record presented by counsel, certain objections sustained, certain objections resolved, and certain ones carried to a date to be continued. Counsel to upload orders where</p>

	appropriate and seeking resettings where appropriate.) (Edmond, Michael) (Entered: 09/14/2020)
09/11/2020	<u>1042</u> Agreed Order regarding first omnibus objection to certain claims – administrative claim of Internal Revenue Service (RE: related document(s) <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 9/11/2020 (Dugan, S.)
09/11/2020	<u>1043</u> Order granting application for compensation (related document # <u>971</u>) granting for Jeffrey Nathan Pomerantz, fees awarded: \$3470794.50, expenses awarded: \$12205.15 Entered on 9/11/2020. (Dugan, S.)
09/11/2020	<u>1044</u> Order granting application for compensation (related document # <u>975</u>) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$615941.40, expenses awarded: \$2701.56 Entered on 9/11/2020. (Dugan, S.)
09/11/2020	<u>1045</u> Order granting application for compensation (related document # <u>924</u>) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$63144.80, expenses awarded: \$833.49 Entered on 9/11/2020. (Ecker, C.)
09/11/2020	<u>1046</u> Order granting application for compensation (related document # <u>972</u>) granting for Mercer (US) Inc., fees awarded: \$54029.98, expenses awarded: \$297.68 Entered on 9/11/2020. (Ecker, C.)
09/11/2020	<u>1047</u> Order granting application for compensation (related document # <u>964</u>) granting for Hayward & Associates PLLC, fees awarded: \$60210.00, expenses awarded: \$525.80 Entered on 9/11/2020. (Ecker, C.)
09/11/2020	<u>1048</u> Order granting application for compensation (related document # <u>831</u>) granting for Official Committee of Unsecured Creditors, fees awarded: \$1573850.25, expenses awarded: \$22930.21 Entered on 9/11/2020. (Ecker, C.)
09/11/2020	<u>1049</u> Request for transcript regarding a hearing held on 9/11/2020. The requested turn-around time is daily. (Edmond, Michael)
09/11/2020	<u>1050</u> Order granting motion to appear pro hac vice adding James E. O'Neill for Highland Capital Management, L.P. (related document # <u>1031</u>) Entered on 9/11/2020. (Ecker, C.)
09/11/2020	<u>1051</u> Order granting application for compensation (related document # <u>883</u>) granting for FTI Consulting, Inc., fees awarded: \$1488533.40, expenses awarded: \$23515.26 Entered on 9/11/2020. (Ecker, C.)
09/11/2020	<u>1052</u> Motion to appear pro hac vice for Erica S. Weisgerber. Fee Amount \$100 Filed by Creditor HarbourVest et al (Driver, Vickie)
09/11/2020	<u>1053</u> Motion to appear pro hac vice for Daniel E. Stroik. Fee Amount \$100 Filed by Creditor HarbourVest et al (Driver, Vickie)
09/11/2020	<u>1054</u> Motion to appear pro hac vice for M. Natasha Labovitz. Fee Amount \$100 Filed by Creditor HarbourVest et al (Driver, Vickie)
09/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28091874, amount \$ 100.00 (re: Doc# <u>1052</u>). (U.S. Treasury)
09/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28091874, amount \$ 100.00 (re: Doc# <u>1053</u>). (U.S. Treasury)

09/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28091874, amount \$ 100.00 (re: Doc# <u>1054</u>). (U.S. Treasury)
09/11/2020	<u>1055</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 7/1/2020 to 7/31/2020, Fee: \$182,490.32, Expenses: \$1,392.77. Filed by Attorney Juliana Hoffman Objections due by 10/2/2020. (Hoffman, Juliana)
09/11/2020	<u>1056</u> Certificate of service re: 1) <i>Witness and Exhibit List for Hearing on September 10, 2020</i> ; 2) <i>WebEx Meeting Invitation to participate electronically in the hearing on Thursday, September 10, 2020 at 2:30 p.m. Central Time before the Honorable Stacey G. Jernigan</i> ; and 3) <i>Instructions for any counsel and parties who wish to participate in the Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1028</u> <i>Witness and Exhibit List for Hearing on September 10, 2020</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,5, <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time), <u>964</u> Application for compensation (<i>Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorn, <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 202</i> , <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US), <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for</i>). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/11/2020	<u>1057</u> Response to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor HarbourVest et al. (Attachments: # <u>1</u> Appendix Part 1 # <u>2</u> Appendix Part 2 # <u>3</u> Appendix Part 3 # <u>4</u> Appendix Part 4) (Driver, Vickie). Modified linkage on 9/14/2020 (Rielly, Bill).
09/13/2020	<u>1058</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1044</u> Order granting application for compensation (related document <u>975</u>) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$615941.40, expenses awarded: \$2701.56 Entered on 9/11/2020. (Dugan, S.)) No. of Notices: 1. Notice Date 09/13/2020. (Admin.)
09/13/2020	<u>1059</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1046</u> Order granting application for compensation (related document <u>972</u>) granting for Mercer (US) Inc., fees awarded: \$54029.98, expenses awarded: \$297.68 Entered on 9/11/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 09/13/2020. (Admin.)
09/13/2020	<u>1060</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1050</u> Order granting motion to appear pro hac vice adding James E. O'Neill for Highland Capital Management, L.P. (related document <u>1031</u>) Entered on 9/11/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 09/13/2020. (Admin.)
09/14/2020	

1063 Certificate of service re: 1) *Motion for Admission Pro Hac Vice of James E. O'Neill to Represent Highland Capital Management, L.P.*; and 2) *Notice of Agenda of Matters Scheduled for Hearing on September 10, 2020 at 2:30 p.m. (Central Time)* Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)1031 *Motion to appear pro hac vice for James E. O'Neill.* Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., 1032 *Notice (Notice of Agenda of Matters Scheduled for Hearing on September 10, 2020 at 2:30 p.m. (Central Time))* filed by Debtor Highland Capital Management, L.P. (RE: related document(s)976 *Notice of hearing (Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals)* filed by Debtor Highland Capital Management, L.P. (RE: related document(s)831 *Application for compensation Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), 883 *Application for compensation Second Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., 924 *Application for compensation Second Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020 for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), 964 *Application for compensation (Hayward & Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020)* for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—Invoices), 971 *Application for compensation Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., 972 *Application for compensation Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020 for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., 975 *Application for compensation (Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020)* for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A–1 # 2 Exhibit A–2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for 964 and for 831 and for 975 and for 972 and for 971 and for 924 and for 883.) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)*****

09/16/2020

1064 Transcript regarding Hearing Held 09/10/2020 (49 pages) RE: Fee Applications; Motion to Extend; Omnibus Objection to Claims. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1061 *Hearing held on 9/10/2020., Hearing continued (RE: related document(s)949 *Motion to extend or limit the exclusivity period (RE: related document(s)820 *Order on motion to extend/shorten time)* filed by Debtor Highland Capital**

	<p>Management, L.P.) Continued Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>949</u>, (Appearances: J. Pomeranz, J. Morris, and J. ONeill for Debtor; M. Clemente for Official Unsecured Creditors Committee; R. Patel and B. Shaw for Acis; A. Clubok for UBS; T. Masherin, M. Hankin and M. Platt for Redeemer Committee; B. Assing for J. Dondero; L. Lambert for UST. Evidentiary hearing. Motion continued to 9/17/20 at 9:30 am.), 1062 Hearing held on 9/10/2020. (RE: related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and J. ONeill for Debtor; M. Clemente for Official Unsecured Creditors Committee; R. Patel and B. Shaw for Acis; A. Clubok for UBS; T. Masherin, M. Hankin and M. Platt for Redeemer Committee; B. Assing for J. Dondero; L. Lambert for UST. Nonevidentiary hearing. Based on record presented by counsel, certain objections sustained, certain objections resolved, and certain ones carried to a date to be continued. Counsel to upload orders where appropriate and seeking resettings where appropriate.)). Transcript to be made available to the public on 12/15/2020. (Rehling, Kathy)</p>
<p>09/16/2020</p>	<p><u>1065</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from July 1, 2020 through July 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
<p>09/16/2020</p>	<p><u>1066</u> Certificate of service re: <i>Documents Served on September 11, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1042</u> Agreed Order regarding first omnibus objection to certain claims – administrative claim of Internal Revenue Service (RE: related document(s)<u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 9/11/2020 (Dugan, S.), <u>1048</u> Order granting application for compensation (related document <u>831</u>) granting for Official Committee of</p>

	Unsecured Creditors, fees awarded: \$1573850.25, expenses awarded: \$22930.21 Entered on 9/11/2020. (Ecker, C.), <u>1051</u> Order granting application for compensation (related document <u>883</u>) granting for FTI Consulting, Inc., fees awarded: \$1488533.40, expenses awarded: \$23515.26 Entered on 9/11/2020. (Ecker, C.)). (Kass, Albert)
09/16/2020	<u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) (Rielly, Bill). (Entered: 10/19/2020)
09/17/2020	1067 Hearing held and conduct as as Status Conference on 9/17/2020. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz for Debtor; M. Clemente for Unsecured Creditors Committee; R. Patel for Acis. Nonevidentiary status conference and continued hearing on Debtors Exclusivity Motion. Court heard reports of continuation of negotiations with regard to Mr. Dondero and between Committee and Debtor with regard to Plan issues. Debtor will file a revised (unsealed) disclosure statement and plan on 9/21/20 and court orally agreed to extension of exclusivity for solicitation through 12/4/20. Court approved certain deadlines suggested for a motion to establish voting procedures (with a 10/22/20 hearing for such motion and the disclosure statement) and court orally approved using 10/20/20 for a hearing on two Rule 9019 motions that will be filed by 9/23/20 with regard to Acis settlement and Redeemer Committee settlement). Counsel to upload order(s).) (Edmond, Michael)
09/17/2020	<u>1068</u> Order granting motion to appear pro hac vice adding Erica S. Weisgerber for HarbourVest et al (related document # <u>1052</u>) Entered on 9/17/2020. (Okafor, M.)
09/17/2020	<u>1069</u> Order granting motion to appear pro hac vice adding Daniel E. Stroik for HarbourVest et al (related document # <u>1053</u>) Entered on 9/17/2020. (Okafor, M.)
09/17/2020	<u>1070</u> Order granting motion to appear pro hac vice adding M. Natasha Labovitz for HarbourVest et al (related document # <u>1054</u>) Entered on 9/17/2020. (Okafor, M.)
09/17/2020	<u>1071</u> Certificate of service re: <i>Summary Cover Sheet and Ninth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from July 1, 2020 to and Including July 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1055</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 7/1/2020 to 7/31/2020, Fee: \$182,490.32, Expenses: \$1,392.77. Filed by Attorney Juliana Hoffman Objections due by 10/2/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
09/18/2020	<u>1072</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 8/1/2020 to 8/31/2020, Fee: \$8,046.00, Expenses: \$31.90. Filed by Attorney Holland N. O'Neil Objections due by 10/9/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
09/18/2020	<u>1073</u> Order setting Disclosure Statement hearing and deadline to object (RE: related document(s) <u>945</u> Disclosure statement filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>945</u> . The deadline for any party wishing to object to the Disclosure Statement shall be October 19, 2020 at 5:00 p.m. Entered on 9/18/2020 (Okafor, M.)
09/19/2020	<u>1074</u> Application for compensation <i>Sidley Austin LLP's Tenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 8/1/2020 to 8/31/2020, Fee: \$467,533.08,

	Expenses: \$2,448.22. Filed by Attorney Juliana Hoffman Objections due by 10/13/2020. (Hoffman, Juliana)
09/19/2020	<u>1075</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1068</u> Order granting motion to appear pro hac vice adding Erica S. Weisgerber for HarbourVest et al (related document <u>1052</u>) Entered on 9/17/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 09/19/2020. (Admin.)
09/19/2020	<u>1076</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1069</u> Order granting motion to appear pro hac vice adding Daniel E. Stroik for HarbourVest et al (related document <u>1053</u>) Entered on 9/17/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 09/19/2020. (Admin.)
09/19/2020	<u>1077</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1070</u> Order granting motion to appear pro hac vice adding M. Natasha Labovitz for HarbourVest et al (related document <u>1054</u>) Entered on 9/17/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 09/19/2020. (Admin.)
09/21/2020	<u>1078</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) Filed by Debtor Highland Capital Management, L.P.) Responses due by 10/5/2020. (Ecker, C.)
09/21/2020	<u>1079</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan). (Annable, Zachery)
09/21/2020	<u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # <u>1</u> Exhibit A—First Amended Plan of Reorganization # <u>2</u> Exhibit B—Organizational Chart)(Annable, Zachery)
09/21/2020	<u>1081</u> Notice of hearing (<i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # <u>1</u> Exhibit A—First Amended Plan of Reorganization # <u>2</u> Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , (Annable, Zachery)
09/22/2020	<u>1082</u> Amended Schedules: E/F, with Summary of Assets and Liabilities (Adding additional creditor or creditors) fee Amount \$31 (with Declaration Under Penalty of Perjury for Non-Individual Debtors,). Filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1—Amended Schedules of Assets and Liabilities – Schedule E-F) (Annable, Zachery)
09/22/2020	Receipt of filing fee for Schedules(19-34054-sgj11) [misc,schedall] (31.00). Receipt number 28122241, amount \$ 31.00 (re: Doc# <u>1082</u>). (U.S. Treasury)
09/22/2020	<u>1083</u> Certificate of service re: <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to July 31, 2020</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1030</u> Notice (generic)). (Annable, Zachery)
09/22/2020	<u>1084</u> Certificate of service re: <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from July 1, 2020 through July 31, 2020</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1065</u> Notice (generic)). (Annable, Zachery)

09/22/2020	<u>1085</u> Certificate of service re: Orders of the Court filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1043</u> Order on application for compensation, <u>1044</u> Order on application for compensation, <u>1045</u> Order on application for compensation, <u>1046</u> Order on application for compensation, <u>1047</u> Order on application for compensation, <u>1050</u> Order on motion to appear pro hac vice). (Annable, Zachery)
09/22/2020	<u>1086</u> Certificate of service re: filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1073</u> Order to set hearing, <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement, <u>1081</u> Notice of hearing). (Annable, Zachery)
09/23/2020	<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
09/23/2020	<u>1088</u> Declaration re: (<i>Declaration of Gregory V. Demo in Support of the Debtor's Motion for Entry of an Order Approving Settlement with (a) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (b) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (c) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159).). (Attachments: # <u>1</u> Exhibit 1—Settlement Agreement # <u>2</u> Exhibit 2—Release) (Annable, Zachery)
09/23/2020	<u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
09/23/2020	<u>1090</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6) (Annable, Zachery)
09/23/2020	<u>1091</u> Motion to file document under seal. (<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
09/24/2020	<u>1092</u> Order further extending the debtor's exclusive period for solicitation of acceptances of a chapter 11 plan <u>949</u> Motion to extend or limit the exclusivity period. Entered on 9/24/2020. (Ecker, C.)
09/24/2020	<u>1093</u> Request for transcript regarding a hearing held on 9/17/2020. The requested turn-around time is 3-day expedited. (Edmond, Michael)
09/24/2020	<u>1094</u> Application for compensation <i>Eleventh Monthly Application for Compensation and for Reimbursement of Expenses for the Period from August 1, 2020 through August 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 8/31/2020, Fee: \$672,815.00, Expenses: \$3,428.14. Filed by Attorney Jeffrey Nathan Pomerantz Objections

	due by 10/15/2020. (Pomerantz, Jeffrey)
09/24/2020	<u>1095</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order), <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1087</u> and for <u>1089</u> , (Annable, Zachery)
09/24/2020	<u>1096</u> Certificate of service re: <i>1) Cover Sheet and Tenth Monthly Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from August 1, 2020 Through August 31, 2020; and 2) Summary Cover Sheet and Tenth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from August 1, 2020 to and Including August 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1072</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 8/1/2020 to 8/31/2020, Fee: \$8,046.00, Expenses: \$31.90. Filed by Attorney Holland N. O'Neil Objections due by 10/9/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>1074</u> Application for compensation <i>Sidley Austin LLP's Tenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 8/1/2020 to 8/31/2020, Fee: \$467,533.08, Expenses: \$2,448.22. Filed by Attorney Juliana Hoffman Objections due by 10/13/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
09/24/2020	<u>1097</u> Certificate of service re: <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing (<i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/24/2020	<u>1098</u> Certificate of service re: <i>Notice of Filing of Debtor's Amended Schedules</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1082</u> Amended Schedules: E/F, with Summary of Assets and Liabilities (Adding additional creditor or creditors) fee Amount \$31 (with Declaration Under Penalty of Perjury for Non-Individual Debtors,). Filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit 1—Amended Schedules of Assets and Liabilities – Schedule E–F) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/24/2020	<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List) (Kathman, Jason)
09/24/2020	Receipt of filing fee for Motion for relief from stay(19-34054-sgj11) [motion,mrlfsty] (181.00). Receipt number 28129975, amount \$ 181.00 (re: Doc# <u>1099</u>). (U.S. Treasury)

09/25/2020	<p><u>1100</u> Notice of hearing filed by Creditor Patrick Daugherty (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Preliminary hearing to be held on 10/22/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. (Attachments: # <u>1</u> Service List) (Clontz, Megan)</p>
09/25/2020	<p><u>1101</u> Transcript regarding Hearing Held 09/17/2020 (13 pages) RE: Status Conference, Objection to Proof of Claim, Motion to Extend Exclusivity. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1067 Hearing held and conduct as as Status Conference on 9/17/2020. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz for Debtor; M. Clemente for Unsecured Creditors Committee; R. Patel for Acis. Nonevidentiary status conference and continued hearing on Debtors Exclusivity Motion. Court heard reports of continuation of negotiations with regard to Mr. Dondero and between Committee and Debtor with regard to Plan issues. Debtor will file a revised (unsealed) disclosure statement and plan on 9/21/20 and court orally agreed to extension of exclusivity for solicitation through 12/4/20. Court approved certain deadlines suggested for a motion to establish voting procedures (with a 10/22/20 hearing for such motion and the disclosure statement) and court orally approved using 10/20/20 for a hearing on two Rule 9019 motions that will be filed by 9/23/20 with regard to Acis settlement and Redeemer Committee settlement). Counsel to upload order(s)). Transcript to be made available to the public on 12/24/2020. (Rehling, Kathy)</p>
09/25/2020	<p><u>1102</u> Amended Notice of hearing filed by Creditor Patrick Daugherty (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Preliminary hearing to be held on 10/22/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Attachments: # <u>1</u> Service List) (Clontz, Megan)</p>
09/25/2020	<p><u>1103</u> Certificate of service re: Order Further Extending the Debtor's Exclusive Period for Solicitation of Acceptances of a Chapter 11 Plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1092</u> Order on motion to extend/shorten time). (Annable, Zachery)</p>
09/25/2020	<p><u>1104</u> Certificate of service re: Eleventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1094</u> Application for compensation <i>Eleventh Monthly Application for Compensation and for Reimbursement of Expenses for the Period from August 1, 2020 through August 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 8/31/). (Annable, Zachery)</p>
09/25/2020	<p><u>1105</u> Omnibus Response opposed to (related document(s): <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund) (<i>UBS's Omnibus Response to Objections to the UBS Proofs of Claim</i>) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (related document(s)<u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19) filed by Debtor Highland Capital Management, L.P., <u>933</u> Objection to claim(s) of</p>

	<p>Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page – to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page – to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page – to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page – to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page – to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page – to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page – to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page – to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page – to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page – to be filed under seal upon order from Court)) filed by Interested Party Redeemer Committee of the Highland Crusader Fund). (Sosland, Martin)</p>
09/25/2020	<p><u>1106</u> Exhibit List to <i>UBS's Omnibus Response to Objections to the UBS Proof of Claim</i> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)<u>1105</u> Response to objection to claim). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u> # <u>43</u> Exhibit 43 # <u>44</u> Exhibit 44) (Sosland, Martin)</p>
09/25/2020	<p><u>1107</u> Motion to file document under seal.(<i>UBS's Motion for Leave to file Documents Under Seal with UBS's Omnibus Response to Objections to the UBS Proof of Claim</i> Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)</p>
09/28/2020	<p><u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit 1—Proposed Order # <u>2</u> Exhibit 1–A—Forms of Ballots # <u>3</u> Exhibit 1–B—Notice of Confirmation Hearing # <u>4</u> Exhibit 1–C—Notice of Non–Voting Status # <u>5</u> Exhibit 1–D—Notice of Assumption) (Annable, Zachery)</p>
09/28/2020	<p><u>1109</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit 1—Proposed Order # <u>2</u> Exhibit 1–A—Forms of Ballots # <u>3</u> Exhibit 1–B—Notice of Confirmation Hearing # <u>4</u> Exhibit 1–C—Notice of Non–Voting Status # <u>5</u> Exhibit 1–D—Notice of Assumption)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u>, (Annable, Zachery)</p>
09/28/2020	<p><u>1110</u> Certificate of service re: 1) <i>Debtors' Motion for Entry of an Order Approving Settlement with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith; and 2) Declaration of Gregory V. Demo in Support of the Debtors' Motion for Entry of an Order Approving Settlement with (A) Acis Capital Management, L.P. and Acis Capital</i></p>

	<p><i>Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>1088</u> Declaration re: (<i>Declaration of Gregory V. Demo in Support of the Debtor's Motion for Entry of an Order Approving Settlement with (a) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (b) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (c) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159).). (Attachments: # 1 Exhibit 1—Settlement Agreement # 2 Exhibit 2—Release) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
09/29/2020	<p><u>1111</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1025</u> Motion to compromise controversy with Carey International, Inc.. (<i>Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith</i>)). (Annable, Zachery)</p>
09/29/2020	<p><u>1112</u> Certificate of service re: filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Conf, <u>1109</u> Notice of hearing</i>)). (Annable, Zachery)</p>
09/29/2020	<p><u>1113</u> Certificate of service re: <i>Documents Served on or Before September 24, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>1090</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) filed by Debtor Highland Capital Management, L.P., <u>1091</u> Motion to file document under seal. (<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1095</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order), <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1087</u> and for <u>1089</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>

09/30/2020	<u>1114</u> Motion to appear pro hac vice for Elissa A. Wagner. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
09/30/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28143856, amount \$ 100.00 (re: Doc# <u>1114</u>). (U.S. Treasury)
09/30/2020	<u>1115</u> Debtor-in-possession monthly operating report for filing period August 1, 2020 to August 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
09/30/2020	<u>1116</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to August 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
10/01/2020	<u>1117</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). (Annable, Zachery)
10/02/2020	<u>1118</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Hayward, Melissa)
10/02/2020	<u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020. (Montgomery, Paige)
10/02/2020	<u>1120</u> Motion for expedited hearing(related documents <u>1119</u> Motion to extend/shorten time) Filed by Creditor Committee Official Committee of Unsecured Creditors (Montgomery, Paige)
10/05/2020	<u>1121</u> Response opposed to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
10/05/2020	<u>1122</u> Agreed Order granting <u>1118</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease Filed by Debtor Highland Capital Management, L.P. Entered on 10/5/2020. (Okafor, M.)
10/05/2020	<u>1123</u> Order granting motion to compromise controversy with Carey International, Inc.. (Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P. (related document # <u>1025</u>) Entered on 10/5/2020. (Okafor, M.)
10/05/2020	<u>1124</u> Order granting motion to appear pro hac vice adding Elissa A. Wagner for Highland Capital Management, L.P. (related document # <u>1114</u>) Entered on 10/5/2020. (Okafor, M.)
10/05/2020	<u>1125</u> Order granting motion to seal exhibits (related document # <u>1091</u> Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A.

	Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P.) Entered on 10/5/2020. (Okafor, M.)
10/05/2020	<u>1126</u> Order approving stipulation regarding Proof of Claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>1117</u> Stipulation filed by Debtor Highland Capital Management, L.P.). The hearing on the Debtors Objection to the IFA Claim currently scheduled to be held on October 14, 2020 at 1:30 p.m. (Central Time) is hereby CANCELLED. Entered on 10/5/2020 (Okafor, M.)
10/05/2020	<u>1127</u> SEALED document regarding: Exhibit B—Cornerstone Monetization Schedule per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1125</u> Order on motion to seal). (Annable, Zachery)
10/05/2020	<u>1128</u> SEALED document regarding: Exhibit 2 – Partial Final Award dated March 6, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1125</u> Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.).
10/05/2020	<u>1129</u> SEALED document regarding: Exhibit 3—Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1125</u> Order on motion to seal). (Annable, Zachery)
10/05/2020	<u>1130</u> SEALED document regarding: Exhibit 4—Final Award dated April 29, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1125</u> Order on motion to seal). (Annable, Zachery)
10/06/2020	<u>1131</u> Order granting motion to seal documents (related document # <u>1107</u>) Entered on 10/6/2020. (Okafor, M.)
10/06/2020	<u>1132</u> INCORRECT ENTRY – REQUESTER CANCELLED REQUEST. Request for transcript regarding a hearing held on 9/23/2020. The requested turn-around time is 3-day expedited. (Edmond, Michael) Modified on 10/14/2020 (Edmond, Michael).
10/06/2020	<u>1133</u> SEALED document regarding: UBS's Omnibus Response to Objections to the UBS Proofs of Claim per court order filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1131</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 2 # <u>2</u> Exhibit 3 # <u>3</u> Exhibit 4 # <u>4</u> Exhibit 5 # <u>5</u> Exhibit 6 # <u>6</u> Exhibit 8 # <u>7</u> Exhibit 9 # <u>8</u> Exhibit 10 # <u>9</u> Exhibit 11 # <u>10</u> Exhibit 12 # <u>11</u> Exhibit 14 # <u>12</u> Exhibit 18 # <u>13</u> Exhibit 22 # <u>14</u> Exhibit 23 # <u>15</u> Exhibit 24 # <u>16</u> Exhibit 25 # <u>17</u> Exhibit 26 # <u>18</u> Exhibit 28 # <u>19</u> Exhibit 29 # <u>20</u> Exhibit 32 # <u>21</u> Exhibit 34 # <u>22</u> Exhibit 35 # <u>23</u> Exhibit 36 # <u>24</u> Exhibit 37 # <u>25</u> Exhibit 38 # <u>26</u> Exhibit 39 # <u>27</u> Exhibit 40 # <u>28</u> Exhibit 41 # <u>29</u> Exhibit 42 # <u>30</u> Exhibit 43) (Sosland, Martin)
10/06/2020	<u>1134</u> Motion to appear pro hac vice for Joseph L. Christensen. Fee Amount \$100 Filed by Creditor Patrick Daugherty (Kathman, Jason)
10/06/2020	<u>1135</u> Motion to appear pro hac vice for Thomas A. Uebler. Fee Amount \$100 Filed by Creditor Patrick Daugherty (Kathman, Jason)
10/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28159068, amount \$ 100.00 (re: Doc# <u>1134</u>). (U.S. Treasury)
10/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28159068, amount \$ 100.00 (re: Doc# <u>1135</u>).

	(U.S. Treasury)
10/06/2020	<u>1136</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020.). Hearing to be held on 10/8/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1119</u> , (Hoffman, Juliana)
10/06/2020	<u>1137</u> Status Conference Hearing held on 10/6/2020. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and R. Feinstein for Debtor; A. Clubok, S. Tomkowiak, and J. Bjork for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; M. Clemente for UCC. Nonevidentiary status conference. Court approved a schedule for motions for summary judgment and Rule 3018 motions to estimate claim of UBS. Counsel to upload order. Hearing to be 11/20/20 at 9:30 am.)(Edmond, Michael)
10/06/2020	<u>1138</u> Certificate of service re: <i>1) Motion for Admission Pro Hac Vice for Elissa A. Wagner to Represent Highland Capital Management, L.P.; and 2) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to August 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1114</u> Motion to appear pro hac vice for Elissa A. Wagner. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1116</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to August 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/06/2020	<u>1139</u> Certificate of service re: <i>1) Webex Meeting Invitation to participate electronically in the hearing on October 6, 2020 at 1:30 p.m. Central Time before the Honorable Stacey G. Jernigan; 2) Instructions for any counsel and parties who wish to participate in the Hearing; and 3) Stipulation Regarding Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1117</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/06/2020	<u>1140</u> Request for transcript regarding a hearing held on 10/6/2020. The requested turn-around time is daily (Jeng, Hawaii) (Entered: 10/07/2020)
10/07/2020	<u>1141</u> Objection to (related document(s): <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Creditor CLO Holdco, Ltd.. (Kane, John)
10/07/2020	<u>1142</u> Application for compensation (<i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, Fee: \$29,785.00, Expenses: \$980.60. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A July 2020 Invoice) (Annable, Zachery)

10/07/2020	<u>1143</u> Certificate of service re: <i>Agreed Motion to Extend the Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1118</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/07/2020	<u>1144</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1124</u> Order granting motion to appear pro hac vice adding Elissa A. Wagner for Highland Capital Management, L.P. (related document <u>1114</u>) Entered on 10/5/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/07/2020. (Admin.)
10/08/2020	<u>1145</u> Transcript regarding Hearing Held 10/06/2020 (58 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/6/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1137</u> Status Conference Hearing held on 10/6/2020. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and R. Feinstein for Debtor; A. Clubok, S. Tomkowiak, and J. Bjork for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; M. Clemente for UCC. Nonevidentiary status conference. Court approved a schedule for motions for summary judgment and Rule 3018 motions to estimate claim of UBS. Counsel to upload order. Hearing to be 11/20/20 at 9:30 am.)). Transcript to be made available to the public on 01/6/2021. (Rehling, Kathy)
10/08/2020	<u>1146</u> Order granting motion to appear pro hac vice adding Joseph L. Christensen for Patrick Daugherty (related document # <u>1134</u>) Entered on 10/8/2020. (Okafor, M.)
10/08/2020	<u>1147</u> Order granting motion to appear pro hac vice adding Thomas A. Uebler for Patrick Daugherty (related document # <u>1135</u>) Entered on 10/8/2020. (Okafor, M.)
10/08/2020	<u>1148</u> Objection to (related document(s): <u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/08/2020	<u>1149</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's (I) Objection to Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay and (II) Cross-Motion to Extend the Automatic Stay to, or Otherwise Enjoin, the Delaware Cases</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1148</u> Objection). (Attachments: # <u>1</u> Exhibit 1) (Annable, Zachery)
10/08/2020	<u>1150</u> Adversary case 20-03128. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Cover Sheet). Nature(s) of suit: 71 (Injunctive relief – reinstatement of stay). (Annable, Zachery)
10/08/2020	<u>1151</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1055</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 7/1/2020 to 7/31/2020, Fee: \$182,490.32, Expenses: \$1,392.77.). (Hoffman, Juliana)
10/08/2020	<u>1152</u> Certificate of service re: <i>Documents Served on October 5, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by

	<p>10/23/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1120</u> Motion for expedited hearing(related documents <u>1119</u> Motion to extend/shorten time) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1122</u> Agreed Order granting <u>1118</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease Filed by Debtor Highland Capital Management, L.P. Entered on 10/5/2020. (Okafor, M.), <u>1123</u> Order granting motion to compromise controversy with Carey International, Inc.. (Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P. (related document <u>1025</u>) Entered on 10/5/2020. (Okafor, M.), <u>1124</u> Order granting motion to appear pro hac vice adding Elissa A. Wagner for Highland Capital Management, L.P. (related document <u>1114</u>) Entered on 10/5/2020. (Okafor, M.), <u>1125</u> Order granting motion to seal exhibits (related document <u>1091</u> Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P.) Entered on 10/5/2020. (Okafor, M.), <u>1126</u> Order approving stipulation regarding Proof of Claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s)<u>1117</u> Stipulation filed by Debtor Highland Capital Management, L.P.). The hearing on the Debtors Objection to the IFA Claim currently scheduled to be held on October 14, 2020 at 1:30 p.m. (Central Time) is hereby CANCELLED. Entered on 10/5/2020 (Okafor, M.)). (Kass, Albert)</p>
10/08/2020	<p><u>1153</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor The Dugaboy Investment Trust. (Attachments: # <u>1</u> Ex. A – Loan Agreement # <u>2</u> Ex.B – Account Summary) (Assink, Bryan)</p>
10/08/2020	<p><u>1164</u> Hearing held on 10/8/2020. (RE: related document(s)<u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors.) (Appearances: P. Montgomery for Official Committee of Unsecured Creditors; J. Kane for CLO Holdco. Nonevidentiary hearing. Announcement of an agreed 60–day extension. Counsel to upload order.) (Edmond, Michael) (Entered: 10/13/2020)</p>
10/09/2020	<p><u>1154</u> Motion for leave to Amend Certain Proofs of Claim Filed by Creditor The Dugaboy Investment Trust Objections due by 10/30/2020. (Attachments: # <u>1</u> Proposed Order) (Assink, Bryan)</p>
10/09/2020	<p><u>1155</u> Order sustaining first omnibus objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late–Filed Claims; (D) Satisfied Claims; (E) No–Liability Claims; and (F) Insufficient–Documentation Claims (RE: related document(s)<u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). (Attachments: # <u>1</u> Schedules 1 – 6) Entered on 10/9/2020 (Okafor, M.)</p>
10/09/2020	<p><u>1156</u> Certificate of service re: <i>Notice of Hearing on PensionDanmarks Motion for Relief from the Automatic Stay and Extending the Objection Deadline</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1136</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020.). Hearing to be held on 10/8/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1119</u>, filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
10/09/2020	<p><u>1157</u> Certificate of service re: <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1142</u> Application for compensation</p>

	<p>(<i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, Fee: \$29,785.00, Expenses: \$980.60. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A July 2020 Invoice) filed by Other Professional Hayward & Associates PLLC). (Kass, Albert)</p>
10/09/2020	<p><u>1158</u> Certificate of service re: 1) <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i>; and 2) <i>Declaration of John A. Morris in Support of the Debtor's (I) Objection to Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay and (II) Cross-Motion to Extend the Automatic Stay to, or Otherwise Enjoin, the Delaware Cases</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1148</u> <i>Objection to (related document(s): <u>1099</u> Motion for relief from stay – Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1149</u> <i>Declaration re: (Declaration of John A. Morris in Support of the Debtor's (I) Objection to Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay and (II) Cross-Motion to Extend the Automatic Stay to, or Otherwise Enjoin, the Delaware Cases)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1148</u> <i>Objection</i>). (Attachments: # 1 Exhibit 1) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/09/2020	<p><u>1159</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1081</u> <i>Notice of hearing (Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1080</u> <i>Amended disclosure statement</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> <i>Disclosure statement</i>). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, filed by Debtor Highland Capital Management, L.P., <u>1097</u> Certificate of service re: <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1081</u> <i>Notice of hearing (Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1080</u> <i>Amended disclosure statement</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> <i>Disclosure statement</i>). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
10/09/2020	<p><u>1160</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 8/1/2020 to 8/31/2020, Fee: \$198,616.32, Expenses: \$0. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/30/2020. (Hoffman, Juliana)</p>
10/10/2020	<p><u>1161</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>1146</u> <i>Order granting motion to appear pro hac vice adding Joseph L. Christensen for Patrick Daugherty</i> (related document <u>1134</u>) Entered on 10/8/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/10/2020. (Admin.)</p>
10/10/2020	<p><u>1162</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>1147</u> <i>Order granting motion to appear pro hac vice adding Thomas A. Uebler for Patrick Daugherty</i> (related document <u>1135</u>) Entered on 10/8/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/10/2020. (Admin.)</p>

10/12/2020	<u>1163</u> Order setting hearing on any summary judgment motion and any 3018 Motion filed in accordance with this Order (RE: related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>928</u> , Entered on 10/12/2020 (Okafor, M.)
10/13/2020	<u>1165</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 1 Transferors: Stanton Advisors LLC (Amount \$10,000.00) To Argo Partners. Filed by Creditor Argo Partners. (Gold, Matthew)
10/13/2020	<u>1166</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Lynn Pinker Cox & Hurst, LLP (Claim No. 148, Amount \$507,430.34) To MCS Capital LLC c/o STC, Inc.. Filed by Creditor Argo Partners. (Gold, Matthew)
10/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trlmagt] (25.00). Receipt number 28176112, amount \$ 25.00 (re: Doc# <u>1165</u>). (U.S. Treasury)
10/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trlmagt] (25.00). Receipt number 28176112, amount \$ 25.00 (re: Doc# <u>1166</u>). (U.S. Treasury)
10/13/2020	<u>1167</u> Notice to take deposition of James P. Seery, Jr., CEO, Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/14/2020	<u>1168</u> Order granting extension of time to file an adversary proceeding against CLO Holdco, Ltd (RE: related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) filed by Creditor Committee Official Committee of Unsecured Creditors. Modified to correct linkage on 11/3/2020 (Ecker, C.).
10/14/2020	<u>1169</u> Agreed Supplemental Order authorizing the retention and employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the petition date (RE: related document(s) <u>763</u> Order on application to employ). Entered on 10/14/2020 (Okafor, M.)
10/14/2020	<u>1170</u> Certificate of service re: <i>Agreed Supplemental Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1169</u> Order (generic)). (Annable, Zachery)
10/14/2020	<u>1171</u> Notice to take deposition of Professor Nancy B. Rapaport filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/14/2020	<u>1172</u> Certificate of service re: <i>Order Sustaining First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1155</u> Order sustaining first omnibus objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims (RE: related document(s) <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). (Attachments: # 1 Schedules 1 - 6) Entered on 10/9/2020 (Okafor, M.)). (Kass, Albert)
10/15/2020	<u>1173</u> Notice (<i>Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit

	B—Organizational Chart)). (Attachments: # <u>1</u> Exhibit C/D to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/15/2020	<u>1174</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1074</u> Application for compensation <i>Sidley Austin LLP's Tenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 8/1/2020 to 8/31/2020, Fee: \$467,). (Hoffman, Juliana)
10/15/2020	<u>1175</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159).). (Chiarello, Annmarie)
10/16/2020	<u>1176</u> Certificate of service re: filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1173</u> Notice (generic)). (Annable, Zachery)
10/16/2020	<u>1177</u> Response opposed to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Creditor CLO Holdco, Ltd.. (Kane, John)
10/16/2020	<u>1178</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4) (Annable, Zachery)
10/16/2020	<u>1179</u> Omnibus Objection to claim(s) of Creditor(s) Crescent Research; Hedgeye Risk Management, LLC; James D. Dondero; NexVest, LLC; James D. Dondero.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 11/18/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
10/16/2020	<u>1180</u> INCORRECT ENTRY: EVENT CODE. SEE DOCUMENT 1214. Motion to disallow claims (<i>Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery) Modified on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1181</u> Brief in support filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch)). (Annable, Zachery). Modified linkage on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1182</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEES MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Proposed Order) (Platt, Mark)
10/16/2020	<u>1183</u> INCORRECT ENTRY: EVENT CODE. SEE DOCUMENT 1215 AND 1216. Motion to disallow claims <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON</i>

	<i>PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Proposed Order) (Platt, Mark) Modified on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1184</u> Support/supplemental document (<i>Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P.)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19) (Annable, Zachery). Related document(s) <u>1214</u> Motion for summary judgment filed by Debtor Highland Capital Management, L.P.. Modified linkage on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1185</u> Declaration re: (<i>Declaration of Elissa A. Wagner in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P.). (Annable, Zachery). Modified linkage on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1186</u> Brief in support filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds'). (Platt, Mark). Modified linkage on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1187</u> Motion to file document under seal. (<i>Debtor's Motion for Leave to File Certain Documents under Seal in Connection with Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
10/16/2020	<u>1188</u> Motion to file document under seal.(<i>UBS's Motion for Leave to File Documents Under Seal with (I) the Objection and (II) the Declaration of W. Kevin Moentmann in Support of the Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72) and (B) the Highland Crusader Funds (Claim No. 81)</i> Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Attachments: # <u>1</u> Proposed Order) (Sosland, Martin)
10/16/2020	<u>1189</u> INCORRECT ENTRY: Attorney to refile. Support/supplemental document <i>APPENDIX TO REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1183</u> Motion to disallow claims <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LOND, 1186</i> Brief). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 (slip page – to be filed under seal upon order from Court) # <u>17</u> Exhibit 17 (slip page) # <u>18</u> Exhibit 18 (slip page) # <u>19</u> Exhibit 19 (slip

	<i>page) # 20 Exhibit 20 (slip page) # 21 Exhibit 21 (slip page) # 22 Exhibit 22 (slip page) # 23 Exhibit 23 (slip page) # 24 Exhibit 24 (slip page) # 25 Exhibit 25 (slip page) # 26 Exhibit 26 (slip page) # 27 Exhibit 27 (slip page) # 28 Exhibit 28 (slip page) # 29 Exhibit 29 (slip page)) (Platt, Mark) Modified on 10/19/2020 (Ecker, C.).</i>
10/16/2020	<u>1190</u> Objection to (related document(s): <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # <u>1</u> A–C) (Sosland, Martin)
10/16/2020	<u>1191</u> Response opposed to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/16/2020	<u>1192</u> Declaration re: <i>W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81)</i> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1190</u> Objection). (Attachments: # <u>1</u> Exhibit 1–6 # <u>2</u> Attachments A–C) (Sosland, Martin)
10/16/2020	<u>1193</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1179</u> Omnibus Objection to claim(s) of Creditor(s) Crescent Research; Hedgeye Risk Management, LLC; James D. Dondero; NexVest, LLC; James D. Dondero.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 11/18/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order)). Hearing to be held on 12/14/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1179</u> , (Annable, Zachery)
10/16/2020	<u>1194</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159).). (Attachments: # <u>1</u> Dondero Ex. A # <u>2</u> Dondero Ex. B # <u>3</u> Dondero Ex. C # <u>4</u> Dondero Ex. D # <u>5</u> Dondero Ex. E # <u>6</u> Dondero Ex. F # <u>7</u> Dondero Ex. G # <u>8</u> Dondero Ex. H # <u>9</u> Dondero Ex. I # <u>10</u> Dondero Ex. J # <u>11</u> Dondero Ex. K # <u>12</u> Dondero Ex. L # <u>13</u> Dondero Ex. M # <u>14</u> Dondero Ex. N # <u>15</u> Dondero Ex. O # <u>16</u> Dondero Ex. P # <u>17</u> Dondero Ex. Q # <u>18</u> Dondero Ex. R # <u>19</u> Dondero Ex. S # <u>20</u> Dondero Ex. T # <u>21</u> Dondero Ex. U # <u>22</u> Dondero Ex. V # <u>23</u> Dondero Ex. W # <u>24</u> Dondero Ex. X) (Assink, Bryan)
10/16/2020	<u>1195</u> Objection to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Creditor HarbourVest et al. (Driver, Vickie)
10/16/2020	<u>1196</u> Witness and Exhibit List filed by Creditor HarbourVest et al (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159).). (Driver, Vickie)
10/16/2020	<u>1197</u> INCORRECT ENTRY: Attorney to refile. Notice <i>Response to Debtor's Omnibus Objection</i> filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (RE: related document(s) <u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2

	<p>International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7)). (Drawhorn, Lauren) Modified on 10/19/2020 (Ecker, C.).</p>
<p>10/16/2020</p>	<p><u>1198</u> INCORRECT ENTRY: Attorney to refile. Notice <i>Response to Debtor's Omnibus Objection</i> filed by Advisors Equity Group, LLC, Eagle Equity Advisors, LLC (RE: related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications</p>

	Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7)). (Drawhorn, Lauren) Modified on 10/19/2020 (Ecker, C.).
10/16/2020	<u>1199</u> Witness and Exhibit List filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5) (Sosland, Martin)
10/16/2020	<u>1200</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1094</u> Application for compensation <i>Eleventh Monthly Application for Compensation and for Reimbursement of Expenses for the Period from August 1, 2020 through August 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 8/31/). (Pomerantz, Jeffrey)
10/16/2020	<u>1201</u> Objection to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Creditor Patrick Daugherty. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Service List) (Kathman, Jason)
10/16/2020	<u>1202</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159).). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4) (Annable, Zachery)
10/16/2020	<u>1203</u> Certificate of service re: 1) <i>Summary Cover Sheet and Ninth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from August 1, 2020 to and Including August 31, 2020</i> ; 2) <i>Scheduling Order with Respect to Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ; and 3) <i>Scheduling Order with Respect to Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1160</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 8/1/2020 to 8/31/2020, Fee: \$198,616.32, Expenses: \$0. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/30/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1163</u> Order setting hearing on any summary judgment motion and any 3018 Motion filed in accordance with this Order (RE: related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>928</u> , Entered on 10/12/2020 (Okafor, M.), <u>1167</u> Notice to take deposition of James P. Seery, Jr., CEO, Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/16/2020	<u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds' (Attachments: # <u>1</u> Proposed Order) (RE: Related document(s) <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund). (Rielly, Bill). (Entered: 10/19/2020)
10/16/2020	

	<u>1216</u> Joinder by filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1214</u> Motion for summary judgment). (Attachments: # <u>1</u> Proposed Order) (Rielly, Bill) (Entered: 10/19/2020)
10/17/2020	<u>1204</u> Witness and Exhibit List filed by Creditor Patrick Daugherty (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159).). (Attachments: # <u>1</u> Exhibit PHD –1 # <u>2</u> Exhibit PHD – 2) (Kathman, Jason)
10/18/2020	<u>1205</u> Notice to take deposition of W. Kevin Moentmann filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/18/2020	<u>1206</u> Notice to take deposition of W. Kevin Moentmann filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/18/2020	<u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # <u>1</u> Proposed Order) (Driver, Vickie)
10/18/2020	<u>1208</u> Declaration re: <i>/of Michael Pugatch in Support of 3018(A) Motion</i> filed by Creditor HarbourVest et al (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i>). (Driver, Vickie)
10/19/2020	<u>1209</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Interested Party Jefferies LLC. (Doherty, Casey)
10/19/2020	<u>1210</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Creditor Pension Benefit Guaranty Corporation. (Attachments: # <u>1</u> Exhibit # <u>2</u> Certificate of Service) (Baird, Michael)
10/19/2020	<u>1211</u> List <i>APPENDIX TO REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGEMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1183</u> Motion to disallow claims <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LOND</i>). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 (slip page – to be filed under seal upon order from Court) # <u>17</u> Exhibit 17 (slip page) # <u>18</u> Exhibit 18 (slip page) # <u>19</u> Exhibit 19 (slip page) # <u>20</u> Exhibit 20 (slip page) # <u>21</u> Exhibit 21 (slip page) # <u>22</u> Exhibit 22 (slip page) # <u>23</u> Exhibit 23 (slip page) # <u>24</u> Exhibit 24 (slip page) # <u>25</u> Exhibit 25 (slip page) # <u>26</u> Exhibit 26 (slip page) # <u>27</u> Exhibit 27 (slip page) # <u>28</u> Exhibit 28 (slip page) # <u>29</u> Exhibit 29 (slip page)) (Platt, Mark)
10/19/2020	<u>1212</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Drawhorn, Lauren)
10/19/2020	<u>1213</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Advisors Equity Group, LLC, Eagle Equity Advisors, LLC. (Drawhorn, Lauren)

10/19/2020	<u>1217</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order), <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1087</u> and for <u>1089</u> , (Annable, Zachery)
10/19/2020	<u>1218</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Creditor Patrick Daugherty. (Kathman, Jason)
10/19/2020	<u>1219</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Creditor HarbourVest et al. (Driver, Vickie)
10/19/2020	<u>1220</u> Reply to (related document(s): <u>1190</u> Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/19/2020	<u>1221</u> Omnibus Reply to (related document(s): <u>1121</u> Response filed by Interested Party James Dondero, <u>1177</u> Response filed by Creditor CLO Holdco, Ltd., <u>1191</u> Response filed by Interested Party Highland CLO Funding, Ltd., <u>1195</u> Objection filed by Creditor HarbourVest et al, <u>1201</u> Objection filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
10/19/2020	<u>1222</u> Notice of hearing filed by Creditor HarbourVest et al (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order), <u>1208</u> Declaration re: <i>of Michael Pugatch in Support of 3018(A) Motion</i> filed by Creditor HarbourVest et al (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i>).). Hearing to be held on 11/10/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1207</u> and for <u>1208</u> , (Driver, Vickie)
10/19/2020	<u>1223</u> Certificate of service re: Motion of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan filed by Creditor HarbourVest et al (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i>). (Driver, Vickie)
10/19/2020	<u>1224</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A – Proposed Order) (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.)). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1214</u> , (Annable, Zachery)
10/19/2020	<u>1225</u> Amended Witness and Exhibit List filed by Creditor Patrick Daugherty (RE: related document(s) <u>1204</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit PHD-1 # <u>2</u> Exhibit PHD-2 # <u>3</u> Exhibit PHD-3 # <u>4</u> Exhibit PHD-4 # <u>5</u> Exhibit PHD-5 # <u>6</u> Exhibit PHD-6 # <u>7</u> Exhibit PHD-7 # <u>8</u> Exhibit PHD-8 # <u>9</u> Exhibit PHD-9 # <u>10</u> Exhibit PHD-10 # <u>11</u> Exhibit PHD-11 # <u>12</u> Exhibit PHD-12 # <u>13</u> Exhibit PHD-13 # <u>14</u> Exhibit PHD-14 #

	<u>15</u> Exhibit PHD-15 # <u>16</u> Exhibit PHD-16 # <u>17</u> Exhibit PHD-17 # <u>18</u> Exhibit PHD-18 # <u>19</u> Exhibit PHD-19 # <u>20</u> Exhibit PHD-20 # <u>21</u> Exhibit PHD-22) (Kathman, Jason)
10/19/2020	<u>1226</u> Witness and Exhibit List filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Platt, Mark)
10/19/2020	<u>1227</u> Notice of hearing filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds' (Attachments: # 1 Proposed Order) (RE: Related document(s) <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund)..., <u>1216</u> Joinder by filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1214</u> Motion for summary judgment). (Attachments: # 1 Proposed Order)). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1215</u> and for <u>1216</u> , (Platt, Mark)
10/19/2020	<u>1228</u> Certificate of service re: <i>1) Order Granting Extension of Time to File an Adversary Proceeding Against CLO Holdco, Ltd.; and 2) Notice of Deposition of Professor Nancy B. Rapaport</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1168</u> Order granting extension of time to file an adversary proceeding against CLO Holdco, Ltd (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry filed by Creditor CLO Holdco, Ltd.). Entered on 10/14/2020 (Okafor, M.), <u>1171</u> Notice to take deposition of Professor Nancy B. Rapaport filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/20/2020	<u>1229</u> Amended Witness and Exhibit List filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1199</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> 4 # <u>5</u> Exhibit 5 # <u>6</u> 6) (Sosland, Martin)
10/20/2020	<u>1230</u> Order granting motion to seal documents (related document # <u>1188</u> Motion for leave to file documents under seal with (I) the Objection and (II) the Declaration of W. Kevin Moentmann in Support of the Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72) and (B) the Highland Crusader Funds (Claim No. 81) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC) Entered on 10/20/2020. (Okafor, M.)
10/20/2020	<u>1231</u> SEALED document regarding: Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 7) and (B) the Highland Crusader Funds (Claim No. 81) per court order filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1230</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Sosland, Martin)
10/20/2020	<u>1232</u> SEALED document regarding: Declaration of W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 7) and (B) the Highland Crusader Funds (Claim No. 81) per court order filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1230</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 4 # <u>2</u> Exhibit 4 # <u>3</u> Exhibit 6 # <u>4</u> Attachment A # <u>5</u> Attachment B # <u>6</u> Attachment C) (Sosland, Martin)
10/20/2020	<u>1233</u> First Supplemental Order Sustaining First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E)

	No-Liability Claims; and (F) Insufficient-Documentation Claims ((RE: related document(s) <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 10/20/2020 (Okafor, M.)
10/20/2020	<u>1234</u> Order granting motion to seal documents (related document # <u>1182</u> Motion to seal regarding the Redeemer Committee of the Crusader Funds Motion for Partial Summary Judgment and Joinder in the Debtors Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS AG, London Branch and UBS Securities LLC.) Entered on 10/20/2020. (Okafor, M.)
10/20/2020	<u>1235</u> Order granting motion to seal documents (related document # <u>1187</u> Debtor's Motion for Leave to File Certain Documents under Seal in Connection with Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch) Filed by Debtor Highland Capital Management, L.P.) Entered on 10/20/2020. (Okafor, M.)
10/20/2020	<u>1236</u> SEALED document regarding: REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1234</u> Order on motion to seal). (Platt, Mark)
10/20/2020	<u>1237</u> SEALED document regarding: APPENDIX TO REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGEMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1234</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 16 (sealed) # <u>2</u> Exhibit 17 (sealed) # <u>3</u> Exhibit 18 (sealed) # <u>4</u> Exhibit 19 (sealed) # <u>5</u> Exhibit 20 (sealed) # <u>6</u> Exhibit 21 (sealed) # <u>7</u> Exhibit 22 (sealed) # <u>8</u> Exhibit 23 (sealed) # <u>9</u> Exhibit 24 (sealed) # <u>10</u> Exhibit 25 (sealed) # <u>11</u> Exhibit 26 (sealed) # <u>12</u> Exhibit 27 (sealed) # <u>13</u> Exhibit 28 (sealed) # <u>14</u> Exhibit 29 (sealed)) (Platt, Mark)
10/20/2020	<u>1238</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
10/20/2020	<u>1239</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
10/20/2020	<u>1240</u> Joinder by <i>META-E DISCOVERY, LLC TO THE OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO THE DEBTORS MOTION FOR ENTRY OF AN ORDER (A) APPROVING THE ADEQUACY OF THE DISCLOSURE STATEMENT; (B) SCHEDULING A HEARING TO CONFIRM THE FIRST AMENDED PLAN OF REORGANIZATION; (C) ESTABLISHING DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF PLAN; (D) APPROVING FORM OF BALLOTS, VOTING DEADLINE AND SOLICITATION PROCEDURES; AND (E) APPROVING FORM AND MANNER OF NOTICE</i> filed by Interested Party Meta-e Discovery, LLC (RE: related document(s) <u>1239</u> Objection to disclosure statement). (Umari, Basil)
10/20/2020	<u>1241</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Patel, Rakhee)

10/20/2020	<u>1242</u> Joinder by REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUNDS JOINDER TO OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO THE DEBTORS MOTION FOR ENTRY OF AN ORDER (A) APPROVING THE ADEQUACY OF THE DISCLOSURE STATEMENT; (B) SCHEDULING A HEARING TO CONFIRM THE FIRST AMENDED PLAN OF REORGANIZATION; (C) ESTABLISHING DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF PLAN; (D) APPROVING FORM OF BALLOTS, VOTING DEADLINE AND SOLICITATION PROCEDURES; AND (E) APPROVING FORM AND MANNER OF NOTICE filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1239</u> Objection to disclosure statement). (Platt, Mark)
10/20/2020	1243 Hearing held and Continued (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (Continued Hearing to be held on 10/21/2020 at 10:00 AM Dallas Judge Jernigan Ctrm for <u>1087</u> .) (Edmond, Michael)
10/20/2020	<u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020. (Hoffman, Juliana)
10/20/2020	1256 Hearing held on 10/20/2020. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.) (Edmond, Michael) (Entered: 10/21/2020)
10/20/2020	1257 Hearing held on 10/20/2020. (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.) (Edmond, Michael) (Entered: 10/21/2020)
10/20/2020	<u>1303</u> Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 & #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)
10/20/2020	1304 DOCKET AN ERROR: Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N.

	Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED JAMES DONDERO'S EXHIBIT'S #A, #B, #C, #D, #E, #F, #G, #H, #I, #J, #K, #L, #M, #N, #O, #Q, #R, #S, #T, #U, #V, #W & #X; NOTE* EXHIBIT #P (Edmond, Michael) Modified on 10/28/2020 (Edmond, Michael). (Entered: 10/28/2020)
10/20/2020	<u>1305</u> MODIFIED TEXT: Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (1304 Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED JAMES DONDERO'S EXHIBIT'S #A, #B, #C, #D, #E, #F, #G, #H, #I, #J, #K, #L, #M, #N, #O, #P, #Q, #R, #S, #T, #U, #V, #W & #X; JASON KATHMAN; COUNSEL FOR PATRICK DAUGHERTY EXHIBIT'S #1079 – AMENDED PLAN & #1080 – AMENDED DISCLOSURE STATEMENT ADMITTED INTO EVIDENCE BY PATRICK DAUGHERTY COUNSEL JASON KATHMAN) (Edmond, Michael) Modified on 10/28/2020 (Edmond, Michael). Modified on 10/30/2020 (Edmond, Michael). (Entered: 10/28/2020)
10/20/2020	<u>1314</u> Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED JAMES DONDERO'S EXHIBIT'S #A, #B, #C, #D, #E, #F, #G, #H, #I, #J, #K, #L, #M, #N, #O, #P, #Q, #R, #S, #T, #U, #V, #W & #X; JASON KATHMAN ; COUNSEL FOR PATRICK DAUGHERTY EXHIBIT'S #1079 – AMENDED PLAN & #1080 – AMENDED DISCLOSURE STATEMENT ADMITTED INTO EVIDENCE). (Edmond, Michael) (Entered: 10/30/2020)
10/21/2020	<u>1245</u> Request for transcript regarding a hearing held on 10/20/2020. The requested turn-around time is hourly. (Edmond, Michael)
10/21/2020	<u>1246</u> Request for transcript regarding a hearing held on 10/20/2020. The requested turn-around time is hourly (Jeng, Hawaii)
10/21/2020	<u>1247</u> Motion to appear pro hac vice for Faheem A. Mahmooth. Fee Amount \$100 Filed by Creditor Pension Benefit Guaranty Corporation (Webb, Donna)
10/21/2020	<u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020</i> for Pachulski Stang Ziehl & Jones, LLP, Debtor's Attorney, Period: 9/10/2020 to 9/30/2020, Fee: \$828,193.00, Expenses: \$7,707.11. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 11/12/2020. (Pomerantz, Jeffrey) MODIFIED to correct party requesting fees/expenses. on 10/22/2020 (Ecker, C.).
10/21/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (0.00). Receipt number KF: No Fee Due – Exempt U.S. Government Agency, amount \$ 0.00 (re: Doc <u>1247</u>). (Floyd)
10/21/2020	<u>1249</u> SEALED document regarding: Debtor's Opening Brief in Support of Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)

10/21/2020	<u>1250</u> SEALED document regarding: Exhibit 2 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<u>1251</u> SEALED document regarding: Exhibit 11 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<u>1252</u> SEALED document regarding: Exhibit 12 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<u>1253</u> SEALED document regarding: Exhibit 14 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<u>1254</u> SEALED document regarding: Exhibit 15 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<u>1255</u> SEALED document regarding: Exhibit 16 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	1258 Hearing held on 10/21/2020. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; A. Chiarello for Acis and Terrys; M. Hankin, and M. Platt for Redeemer Committee; M. Lynn for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Nonevidentiary closing arguments. Court granted motion, based on reasoning granted orally. Counsel to upload order.) (Edmond, Michael)
10/21/2020	<u>1259</u> Notice of Appearance and Request for Notice by Thomas G. Haskins Jr. filed by Creditor NWCC, LLC. (Haskins, Thomas)
10/21/2020	<u>1260</u> Motion to appear pro hac vice for Jonathan Sundheimer. Fee Amount \$100 Filed by Creditor NWCC, LLC (Haskins, Thomas)
10/21/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28201179, amount \$ 100.00 (re: Doc# <u>1260</u>). (U.S. Treasury)
10/21/2020	<u>1261</u> Certificate of service re: Joinder to Objection to Disclosure Statement filed by Interested Party Meta-e Discovery, LLC (RE: related document(s) <u>1240</u> Joinder). (Umari,

	Basil)
10/21/2020	<u>1262</u> Motion to appear pro hac vice for Joseph T. Moldovan. Fee Amount \$100 Filed by Interested Party Meta-e Discovery, LLC (Umari, Basil)
10/21/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28201283, amount \$ 100.00 (re: Doc# <u>1262</u>). (U.S. Treasury)
10/21/2020	<u>1263</u> Emergency Motion to continue hearing on (related documents <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
10/21/2020	<u>1264</u> Stipulation Resolving Proof of Claim No. 86 of NWCC, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED to correct text on 10/22/2020 (Ecker, C.).
10/21/2020	<u>1265</u> Certificate of service re: <i>Documents Served on or Before October 16, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1178</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Debtor Highland Capital Management, L.P., <u>1179</u> Omnibus Objection to claim(s) of Creditor(s) Crescent Research; Hedgeye Risk Management, LLC; James D. Dondero; NexVest, LLC; James D. Dondero.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 11/18/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>1180</u> INCORRECT ENTRY: EVENT CODE. SEE DOCUMENT 1214. Motion to disallow claims (<i>Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) (Annable, Zachery) Modified on 10/19/2020. filed by Debtor Highland Capital Management, L.P., <u>1181</u> Brief in support filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch)). (Annable, Zachery). Modified linkage on 10/19/2020. filed by Debtor Highland Capital Management, L.P., <u>1184</u> Support/supplemental document (<i>Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P.)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19) (Annable, Zachery). Related document(s) <u>1214</u> Motion for summary judgment filed by Debtor Highland Capital Management, L.P.. Modified linkage on 10/19/2020. filed by Debtor Highland Capital Management, L.P., <u>1185</u> Declaration re: (<i>Declaration of Elissa A. Wagner in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P.)). (Annable, Zachery). Modified linkage on 10/19/2020. filed by Debtor Highland Capital Management, L.P., <u>1187</u> Motion to file document under seal. (<i>Debtor's Motion for Leave to File Certain Documents under Seal in Connection with Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>1193</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1179</u> Omnibus Objection to claim(s) of Creditor(s) Crescent Research; Hedgeye Risk Management, LLC; James D.

	<p>Dondero; NexVest, LLC; James D. Dondero.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 11/18/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 12/14/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1179</u>, filed by Debtor Highland Capital Management, L.P., <u>1202</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/22/2020	<p><u>1266</u> Order granting motion to continue hearing on (related document # <u>1263</u>) (related documents Disclosure statement) Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, Entered on 10/22/2020. (Ecker, C.)</p>
10/22/2020	<p><u>1267</u> Notice of change of address filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)</p>
10/22/2020	<p><u>1268</u> Amended Notice of hearing (<i>Amended Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, (Annable, Zachery)</p>
10/22/2020	<p><u>1269</u> Certificate of service re: <i>Documents Served on or Before October 19, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1206</u> Notice to take deposition of W. Kevin Moentmann filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1217</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order), <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1087</u> and for <u>1089</u>, filed by Debtor Highland Capital Management, L.P., <u>1220</u> Reply to (related document(s): <u>1190</u> Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1221</u> Omnibus Reply to (related document(s): <u>1121</u> Response filed by Interested Party James Dondero, <u>1177</u> Response filed by Creditor CLO Holdco, Ltd., <u>1191</u> Response filed by Interested Party Highland CLO Funding, Ltd., <u>1195</u> Objection filed by Creditor HarbourVest et al, <u>1201</u> Objection filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., <u>1224</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A – Proposed Order) (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.)). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1214</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/22/2020	<p><u>1270</u> Certificate of service re: <i>Documents Served on October 20, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1233</u> First Supplemental Order Sustaining First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F)</p>

	<p>Insufficient–Documentation Claims ((RE: related document(s)<u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 10/20/2020 (Okafor, M.), <u>1235</u> Order granting motion to seal documents (related document <u>1187</u> Debtor's Motion for Leave to File Certain Documents under Seal in Connection with Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch) Filed by Debtor Highland Capital Management, L.P.) Entered on 10/20/2020. (Okafor, M.)). (Kass, Albert)</p>
10/23/2020	<p><u>1271</u> Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972–786–3063. (RE: related document(s) <u>1256</u> Hearing held on 10/20/2020. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), <u>1257</u> Hearing held on 10/20/2020. (RE: related document(s)<u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)</p>
10/23/2020	<p><u>1272</u> Request for transcript regarding a hearing held on 10/21/2020. The requested turn–around time is hourly. (Edmond, Michael)</p>
10/23/2020	<p><u>1273</u> Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # <u>1089</u>) Entered on 10/23/2020. (Okafor, M.)</p>
10/23/2020	<p><u>1274</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Hearing to be held on 10/28/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1099</u>, (Annable, Zachery)</p>
10/23/2020	<p><u>1275</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital</p>

	Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u> , (Annable, Zachery)
10/23/2020	<u>1276</u> Order granting motion to appear pro hac vice adding Faheem A. Mahmooth for Pension Benefit Guaranty Corporation (related document # <u>1247</u>) Entered on 10/23/2020. (Okafor, M.)
10/23/2020	<u>1277</u> Order granting motion to appear pro hac vice adding Jonathan D. Sundheimer for NWCC, LLC (related document <u>1260</u>) Entered on 10/23/2020. (Okafor, M.)
10/23/2020	<u>1278</u> Order granting motion to appear pro hac vice adding Joseph T. Moldovan for Meta-e Discovery, LLC (related document # <u>1262</u>) Entered on 10/23/2020. (Okafor, M.)
10/23/2020	<u>1279</u> Motion to file document under seal. – <i>Daugherty's Motion for Leave to File Under Seal His Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 and Supporting Documents Filed by Creditor Patrick Daugherty</i> (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Delaware Protective Order) (Kathman, Jason)
10/23/2020	<u>1280</u> Motion for leave to Amend Proof of Claim No. 77 Filed by Creditor Patrick Daugherty Objections due by 11/16/2020. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Second Amended Proof of Claim) (Kathman, Jason)
10/23/2020	<u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Creditor Patrick Daugherty (Attachments: # <u>1</u> Exhibit A – Proposed Order) (Kathman, Jason)
10/23/2020	<u>1282</u> Brief in support filed by Creditor Patrick Daugherty (RE: related document(s) <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i>). (Kathman, Jason)
10/23/2020	<u>1283</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 9/30/2020, Fee: \$356,889.96, Expenses: \$2,204.73. Filed by Attorney Juliana Hoffman Objections due by 11/13/2020. (Hoffman, Juliana)
10/23/2020	<u>1284</u> Support/supplemental document – <i>Appendix to Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1282</u> Brief). (Attachments: # <u>1</u> Appendix – Part 1 of 3 # <u>2</u> Appendix – Part 2 # <u>3</u> Appendix – Part 3) (Kathman, Jason)
10/24/2020	<u>1285</u> Transcript regarding Hearing Held 10/21/2020 (48 pages) RE: Motion to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/22/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1258</u> Hearing held on 10/21/2020. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; A. Chiarello for Acis and Terrys; M. Hankin, and M. Platt for Redeemer Committee; M. Lynn for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST.

	Nonevidentiary closing arguments. Court granted motion, based on reasoning granted orally. Counsel to upload order.)). Transcript to be made available to the public on 01/22/2021. (Rehling, Kathy)
10/25/2020	<u>1286</u> Omnibus Response opposed to (related document(s): <u>1209</u> Objection to disclosure statement filed by Interested Party Jefferies LLC, <u>1210</u> Objection to disclosure statement filed by Creditor Pension Benefit Guaranty Corporation, <u>1218</u> Objection to disclosure statement filed by Creditor Patrick Daugherty, <u>1219</u> Objection to disclosure statement filed by Creditor HarbourVest et al, <u>1238</u> Objection to disclosure statement filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch, <u>1239</u> Objection to disclosure statement filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1241</u> Objection to disclosure statement filed by Creditor Acis Capital Management GP, LLC, Creditor Acis Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/25/2020	<u>1287</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan). (Annable, Zachery)
10/25/2020	<u>1288</u> Support/supplemental document (<i>Redline of Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1287</u> Chapter 11 plan). (Annable, Zachery)
10/25/2020	<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement). (Annable, Zachery)
10/25/2020	<u>1290</u> Support/supplemental document (<i>Redline of the Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Disclosure statement). (Annable, Zachery)
10/25/2020	<u>1291</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1276</u> Order granting motion to appear pro hac vice adding Faheem A. Mahmooth for Pension Benefit Guaranty Corporation (related document <u>1247</u>) Entered on 10/23/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/25/2020. (Admin.)
10/25/2020	<u>1292</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1278</u> Order granting motion to appear pro hac vice adding Joseph T. Moldovan for Meta-e Discovery, LLC (related document <u>1262</u>) Entered on 10/23/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/25/2020. (Admin.)
10/26/2020	<u>1293</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing (<i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P., <u>1097</u> Certificate of service re: <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing (<i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit

	B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
10/26/2020	<u>1294</u> Certificate of service re: <i>Documents Served on October 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020</i> for Pachulski Stang Ziehl & Jones, LLP, Debtor's Attorney, Period: 9/10/2020 to 9/30/2020, Fee: \$828,193.00, Expenses: \$7,707.11. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 11/12/2020. (Pomerantz, Jeffrey) MODIFIED to correct party requesting fees/expenses. on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>1263</u> Emergency Motion to continue hearing on (related documents <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1264</u> Stipulation Resolving Proof of Claim No. 86 of NWCC, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED to correct text on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/26/2020	<u>1295</u> Support/supplemental document (<i>Notice of Supplemental Disclosures</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Disclosure statement). (Annable, Zachery)
10/27/2020	<u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,865,520.45, Expenses: \$18,678.47. Filed by Attorney Juliana Hoffman Objections due by 11/17/2020. (Hoffman, Juliana)
10/27/2020	<u>1297</u> Request for transcript regarding a hearing held on 10/27/2020. The requested turn-around time is hourly (Jeng, Hawaii)
10/27/2020	<u>1298</u> Certificate of service re: <i>Documents Served on or Before October 23, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1266</u> Order granting motion to continue hearing on (related document <u>1263</u>) (related documents Disclosure statement) Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , Entered on 10/22/2020. (Ecker, C.), <u>1268</u> Amended Notice of hearing (<i>Amended Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/27/2020	1307 Hearing held on 10/27/2020., Hearing continued (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).) Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , (Appearances: J. Pomeranz, I. Kharasch, and G. Demo for Debtor; M. Clemente and P. Reid for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis and Terrys; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Kathman for P. Daugherty; K. Posin for UBS; D. Stroik for HarbourVest; M. Baird for SEC; L. Lambert for UST. Nonevidentiary hearing. Court sustained various objections to adequacy of certain provisions of disclosure statement, orally outlining both specific and general concerns (e.g., vagueness and breadth

	of releases; delay in Debtor providing certain important documents, such as Claimant Trust Agreement, until Plan Supplement; legal justification for an administrative convenience class at the \$1 million level, consisting mostly of prepetition lawyers fee claim; lack of clarity about assets that will be liquidated for Class 7, particularly in scenario where certain disputed claims are allowed (revenue streams from Debtors management of third-party assets?); lack of support of UCC for plan). Hearing continued to 11/23/20.) (Edmond, Michael) (Entered: 10/28/2020)
10/27/2020	<u>1108</u> Motion for leave (Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)) Continued hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u> , (Appearances: J. Pomeranz, I. Kharasch, and G. Demo for Debtor; M. Clemente and P. Reid for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis and Terrys; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Kathman for P. Daugherty; K. Posin for UBS; D. Stroik for HarbourVest; M. Baird for SEC; L. Lambert for UST. Nonevidentiary hearing. Court sustained various objections to adequacy of certain provisions of disclosure statement, orally outlining both specific and general concerns (e.g., vagueness and breadth of releases; delay in Debtor providing certain important documents, such as Claimant Trust Agreement, until Plan Supplement; legal justification for an administrative convenience class at the \$1 million level, consisting mostly of prepetition lawyers fee claim; lack of clarity about assets that will be liquidated for Class 7, particularly in scenario where certain disputed claims are allowed (revenue streams from Debtors management of third-party assets?); lack of support of UCC for plan). Hearing continued to 11/23/20.) (Edmond, Michael) (Entered: 10/28/2020)
10/28/2020	<u>1299</u> Request for transcript regarding a hearing held on 10/28/2020. The requested turn-around time is hourly (Jeng, Hawaii)
10/28/2020	<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , (Annable, Zachery)
10/28/2020	<u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s) <u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.)
10/28/2020	<u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document # <u>1087</u>) Entered on 10/28/2020. (Okafor, M.)
10/28/2020	<u>1306</u> Hearing held on 10/28/2020. (RE: related document(s) <u>1099</u> Motion for relief from stay – Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay, filed by Creditor Patrick Daugherty.) (Appearances: J. Kathman and T. Uebler for Movant, P. Daugherty; J. Morris for Debtor. Nonevidentiary hearing (Declaration only). Motion granted for reasons stated orally. Mr. Kathman to upload order.) (Edmond, Michael)

10/28/2020	<p><u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, (Annable, Zachery)</p>
10/28/2020	<p><u>1310</u> Certificate of service re: 1) <i>Order Approving Debtor's Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith</i>; 2) <i>Amended Notice of Hearing on Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay</i>; and 3) <i>Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1273</u> Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document <u>1089</u>) Entered on 10/23/2020. (Okafor, M.), <u>1274</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Hearing to be held on 10/28/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1099</u>, filed by Debtor Highland Capital Management, L.P., <u>1275</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/28/2020	<p><u>1311</u> Certificate of service re: 1) <i>Summary Cover Sheet and Eleventh Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from September 1, 2020 Through September 30, 2020</i>; and 2) <i>Debtors Omnibus Reply to Objections to Approval of the Debtors Disclosure Statement for the Debtors First Amended Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1283</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 9/30/2020, Fee: \$356,889.96, Expenses: \$2,204.73. Filed by Attorney Juliana Hoffman Objections due by 11/13/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1286</u> Omnibus Response opposed to (related document(s): <u>1209</u> Objection to disclosure statement filed by Interested Party Jefferies LLC, <u>1210</u> Objection to disclosure statement filed by Creditor Pension Benefit Guaranty Corporation, <u>1218</u> Objection to disclosure statement filed by Creditor Patrick Daugherty, <u>1219</u> Objection to disclosure statement filed by Creditor HarbourVest et al, <u>1238</u> Objection to disclosure statement filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch, <u>1239</u> Objection to disclosure statement filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1241</u> Objection to disclosure statement filed by Creditor Acis Capital Management GP, LLC, Creditor Acis Capital Management, L.P.)</p>

	filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/29/2020	<u>1312</u> Transcript regarding Hearing Held 10/27/2020 (95 pages) RE: Amended Disclosure Statement, Motion for Entry of an Order Approving Adequacy of Disclosure Statement. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/27/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1308 Hearing held on 10/27/2020., Hearing continued (RE: related document(s) <u>1108</u> Motion for leave (Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)) Continued hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u> , (Appearances: J. Pomeranz, I. Kharasch, and G. Demo for Debtor; M. Clemente and P. Reid for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis and Terrys; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Kathman for P. Daugherty; K. Posin for UBS; D. Stroik for HarbourVest; M. Baird for SEC; L. Lambert for UST. Nonevidentiary hearing. Court sustained various objections to adequacy of certain provisions of disclosure statement, orally outlining both specific and general concerns (e.g., vagueness and breadth of releases; delay in Debtor providing certain important documents, such as Claimant Trust Agreement, until Plan Supplement; legal justification for an administrative convenience class at the \$1 million level, consisting mostly of prepetition lawyers fee claim; lack of clarity about assets that will be liquidated for Class 7, particularly in scenario where certain disputed claims are allowed (revenue streams from Debtors management of third-party assets?); lack of support of UCC for plan). Hearing continued to 11/23/20.)). Transcript to be made available to the public on 01/27/2021. (Rehling, Kathy)
10/29/2020	<u>1313</u> Certificate of service re: <i>Summary Cover Sheet and Third Interim Fee Application of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from June 1, 2020 Through and Including August 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,865,520.45, Expenses: \$18,678.47. Filed by Attorney Juliana Hoffman Objections due by 11/17/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
10/30/2020	<u>1315</u> Order directing UBS' Offer of Proof (RE: related document(s) <u>1089</u> Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.)
10/30/2020	<u>1316</u> Certificate No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1160</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 8/1/2020 to 8/31/2020, Fee: \$198,616.32, Expenses: \$0.). (Hoffman, Juliana)
10/30/2020	<u>1317</u> Certificate of service re: <i>(Supplemental) Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing <i>(Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital

	<p>Management, L.P. (RE: related document(s)<u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, filed by Debtor Highland Capital Management, L.P., <u>1097</u> Certificate of service re: <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1081</u> Notice of hearing (<i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
10/31/2020	<p><u>1318</u> Transcript regarding Hearing Held 10/28/2020 (32 pages) RE: Patrick Daugherty's Motion to Confirm Status of Automatic Stay. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/29/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1306 Hearing held on 10/28/2020. (RE: related document(s)<u>1099</u> Motion for relief from stay – Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay, filed by Creditor Patrick Daugherty.) (Appearances: J. Kathman and T. Uebler for Movant, P. Daugherty; J. Morris for Debtor. Nonevidentiary hearing (Declaration only). Motion granted for reasons stated orally. Mr. Kathman to upload order.)). Transcript to be made available to the public on 01/29/2021. (Rehling, Kathy)</p>
11/01/2020	<p><u>1319</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>1315</u> Order directing UBS' Offer of Proof (RE: related document(s)<u>1089</u> Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.)) No. of Notices: 2. Notice Date 11/01/2020. (Admin.)</p>
11/02/2020	<p><u>1320</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.) Responses due by 11/16/2020. (Ecker, C.)</p>
11/02/2020	<p><u>1321</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020.) Responses due by 11/16/2020. (Ecker, C.)</p>
11/02/2020	<p><u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s)<u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C)</p>

	<p>Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document 1087) Entered on 10/28/2020. (Okafor, M.), 1309 Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1108 Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) 1079 Chapter 11 plan, 1080 Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for 1108, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/03/2020	<p>1323 Certificate of service re: Daugherty's Objection to Approval of Debtor's Disclosure Statement filed by Creditor Patrick Daugherty (RE: related document(s)1218 Objection to disclosure statement). (Kathman, Jason)</p>
11/03/2020	<p>1324 Certificate of service re: Daugherty's Motion for Leave to File Under Seal filed by Creditor Patrick Daugherty (RE: related document(s)1279 Motion to file document under seal. – <i>Daugherty's Motion for Leave to File Under Seal His Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 and Supporting Documents</i>). (Kathman, Jason)</p>
11/03/2020	<p>1325 Certificate of service re: Daugherty's Motion for Leave to Amend Proof of Claim No. 77 filed by Creditor Patrick Daugherty (RE: related document(s)1280 Motion for leave to Amend Proof of Claim No. 77). (Kathman, Jason)</p>
11/03/2020	<p>1326 Certificate of service re: Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes, Brief and Appendix filed by Creditor Patrick Daugherty (RE: related document(s)1281 Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018, 1282</i> Brief, 1284 Support/supplemental document). (Kathman, Jason)</p>
11/03/2020	<p>1327 Order on Creditor Patrick Daugherty's Motion to confirm status of automatic stay, or alternatively to modify automatic stay (related document # 1099) Entered on 11/3/2020. (Okafor, M.)</p>
11/03/2020	<p>1328 Notice of Withdrawal of Motion for Relief from the Automatic Stay to Allow Pursuit of Motion for Order to Show Cause For Violations of the Acis Plan Injunction filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s)593 Motion for relief from stay Fee amount \$181, Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. Objections due by 5/1/2020. (Attachments: # 1 Exhibit 1 (Draft Motion Show Cause Motion) # 2 Exhibit 2 (DAF Complaint 1st case) # 3 Exhibit 3 (DAF Dismissal first case) # 4 Exhibit 4 (DAF Complaint 2nd case) # 5 Exhibit 5 (DAF Dismissal 2nd Case) # 6 Proposed Order)). (Shaw, Brian)</p>
11/03/2020	<p>1329 Debtor-in-possession monthly operating report for filing period September 1, 2020 to September 30, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
11/03/2020	<p>1330 Certificate No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s)1142 Application for compensation (<i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i>) for Hayward & Associ). (Annable, Zachery)</p>

11/03/2020	<p><u>1331</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to September 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)</p>
11/04/2020	<p><u>1332</u> Certificate of service re: filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1331</u> Notice (generic)). (Annable, Zachery)</p>
11/05/2020	<p><u>1333</u> Stipulation by Highland Capital Management, L.P. and Acis Capital Management, L.P., Acis Capital Management GP, LLC, Joshua N. Terry, Jennifer G. Terry, and James Dondero. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1302</u> Order on motion to compromise controversy). (Annable, Zachery)</p>
11/05/2020	<p><u>1334</u> Certificate of service re: (<i>Amended</i>) Documents Served on October 21, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020</i> for Pachulski Stang Ziehl & Jones, LLP, Debtor's Attorney, Period: 9/10/2020 to 9/30/2020, Fee: \$828,193.00, Expenses: \$7,707.11. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 11/12/2020. (Pomerantz, Jeffrey) MODIFIED to correct party requesting fees/expenses. on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>1263</u> Emergency Motion to continue hearing on (related documents <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1264</u> Stipulation Resolving Proof of Claim No. 86 of NWCC, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED to correct text on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>1294</u> Certificate of service re: <i>Documents Served on October 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020</i> for Pachulski Stang Ziehl & Jones, LLP, Debtor's Attorney, Period: 9/10/2020 to 9/30/2020, Fee: \$828,193.00, Expenses: \$7,707.11. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 11/12/2020. (Pomerantz, Jeffrey) MODIFIED to correct party requesting fees/expenses. on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>1263</u> Emergency Motion to continue hearing on (related documents <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1264</u> Stipulation Resolving Proof of Claim No. 86 of NWCC, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED to correct text on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
11/05/2020	<p><u>1335</u> Certificate of service re: (<i>Amended</i>) 1) Order Approving Debtor's Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith; 2) Amended Notice of Hearing on Patrick Daugherty's Motion to Confirm Status of</p>

	<p><i>Automatic Stay, or Alternatively to Modify Automatic Stay; and 3) Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1273</u> Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document <u>1089</u>) Entered on 10/23/2020. (Okafor, M.), <u>1274</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Hearing to be held on 10/28/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1099</u>, filed by Debtor Highland Capital Management, L.P., <u>1275</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>)) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P., <u>1310</u> Certificate of service re: <i>1) Order Approving Debtor's Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith; 2) Amended Notice of Hearing on Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay; and 3) Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1273</u> Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document <u>1089</u>) Entered on 10/23/2020. (Okafor, M.), <u>1274</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Hearing to be held on 10/28/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1099</u>, filed by Debtor Highland Capital Management, L.P., <u>1275</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>)) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
11/05/2020	<p><u>1336</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>1327</u> Order on Creditor Patrick Daugherty's Motion to confirm status of automatic stay, or alternatively to modify automatic stay (related document <u>1099</u>) Entered on 11/3/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 11/05/2020. (Admin.)</p>
11/06/2020	<p><u>1337</u> Response opposed to (related document(s): <u>1214</u> Motion for summary judgment filed by Debtor Highland Capital Management, L.P., <u>1215</u> Motion for summary judgment filed by Interested Party Redeemer Committee of the Highland Crusader Fund) filed by</p>

	Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
11/06/2020	<u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 11/20/2020. (Attachments: # <u>1</u> Proposed Order) (Sosland, Martin)
11/06/2020	<u>1339</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). Appellant Designation due by 11/20/2020. (Attachments: # <u>1</u> Exhibit)(Sosland, Martin)
11/06/2020	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] (298.00). Receipt number 28246686, amount \$ 298.00 (re: Doc# <u>1339</u>). (U.S. Treasury)
11/06/2020	<u>1340</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 9/30/2020, Fee: \$170,859.60, Expenses: \$806.60. Filed by Attorney Juliana Hoffman Objections due by 11/30/2020. (Hoffman, Juliana)
11/06/2020	<u>1341</u> Brief in opposition filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1214</u> Motion for summary judgment, <u>1215</u> Motion for summary judgment). (Sosland, Martin)
11/06/2020	<u>1342</u> Brief in support filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>)). (Sosland, Martin)
11/06/2020	<u>1343</u> Motion to file document under seal.(<i>With UBS's Brief and Appendix of Exhibits in Opposition to Motions for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 and in Support of Rule 56(d) Request</i>) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)
11/06/2020	<u>1344</u> Motion to file document under seal.(<i>With UBS's Brief and Appendix of Exhibits in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)
11/06/2020	<u>1345</u> Exhibit List (<i>Appendix of Exhibits to UBS's Brief in Opposition to Motions for Partial Summary Judgment on Proof of Claims Nos. 190 and 191 and in Support of Rule 56(d) Request</i>) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1337</u> Response). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9-21 # <u>10</u> Exhibit 22) (Sosland, Martin)
11/06/2020	<u>1346</u> Exhibit List (<i>Appendix of Exhibits to UBS's Brief in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9-29) (Sosland, Martin)
11/09/2020	<u>1347</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # <u>1</u> Order)(Assink, Bryan)

11/09/2020	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcap] (298.00). Receipt number 28249949, amount \$ 298.00 (re: Doc# <u>1347</u>). (U.S. Treasury)
11/09/2020	<u>1348</u> Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Creditor HarbourVest et al (Attachments: # <u>1</u> Proposed Order) (Driver, Vickie)
11/09/2020	<u>1349</u> Objection to (related document(s): <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/09/2020	<u>1350</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1349</u> Objection). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Annable, Zachery)
11/10/2020	<u>1351</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Creditor Patrick Daugherty (Attachments: # <u>1</u> Exhibit A – Proposed Order)). Hearing to be held on 11/17/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1281</u> , (Annable, Zachery)
11/10/2020	<u>1352</u> Order granting motion to continue hearing on (related document # <u>1348</u>) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i>) Hearing to be held on 12/2/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , Entered on 11/10/2020. (Okafor, M.)
11/10/2020	<u>1353</u> Order granting motion to seal documents with UBS's Brief and Appendix of Exhibits in Opposition to Motions for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 and in Support of Rule 56(d) Request (related document # <u>1343</u>) Entered on 11/10/2020. (Okafor, M.)
11/10/2020	<u>1354</u> Order granting motion to seal documents with UBS's Brief and Appendix of Exhibits in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018 (related document # <u>1344</u>) Entered on 11/10/2020. (Okafor, M.)
11/10/2020	<u>1355</u> SEALED document regarding: UBS's Brief in Opposition to Motions for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 and in Support of Rule 56(d) Request per court order filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1353</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 9 # <u>2</u> Exhibit 10 # <u>3</u> Exhibit 11 # <u>4</u> Exhibit 12 # <u>5</u> Exhibit 13 # <u>6</u> Exhibit 14 # <u>7</u> Exhibit 15 # <u>8</u> Exhibit 16 # <u>9</u> Exhibit 17 # <u>10</u> Exhibit 18 # <u>11</u> Exhibit 19 # <u>12</u> Exhibit 20 # <u>13</u> Exhibit 21) (Sosland, Martin)
11/10/2020	<u>1356</u> SEALED document regarding: UBS's Brief in Support of Motion for Temporary Allowance of claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018 per court order filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1354</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 9 # <u>2</u> Exhibit 10 # <u>3</u> Exhibit 11 # <u>4</u> Exhibit 12 # <u>5</u> Exhibit 13 # <u>6</u> Exhibit 14 # <u>7</u> Exhibit 15 # <u>8</u> Exhibit 16 # <u>9</u> Exhibit 17 # <u>10</u> Exhibit 18 # <u>11</u> Exhibit 19 # <u>12</u> Exhibit 20 # <u>13</u> Exhibit 21 # <u>14</u> Exhibit 22 # <u>15</u> Exhibit 23 # <u>16</u> Exhibit 24 # <u>17</u> Exhibit 25 # <u>18</u> Exhibit 26 # <u>19</u> Exhibit 27 # <u>20</u> Exhibit 28 # <u>21</u> Exhibit 29) (Sosland, Martin)
11/10/2020	<u>1357</u> Notice of hearing filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of</i>

	<i>Bankruptcy Procedure 3018</i>) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 11/20/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1338</u> , (Sosland, Martin)
11/10/2020	<u>1358</u> Certificate of service re: <i>Eleventh Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from September 1, 2020 to and Including September 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1340</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 9/30/2020, Fee: \$170,859.60, Expenses: \$806.60. Filed by Attorney Juliana Hoffman Objections due by 11/30/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
11/10/2020	<u>1359</u> Certificate of service re: 1) <i>Debtors Objection to Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> ; and 2) <i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1349</u> Objection to (related document(s): <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1350</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1349</u> Objection). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/11/2020	<u>1360</u> Motion to appear pro hac vice for Hayley R. Winograd. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
11/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28256837, amount \$ 100.00 (re: Doc# <u>1360</u>). (U.S. Treasury)
11/11/2020	<u>1361</u> Certificate of service re: 1) <i>Notice of Transfer for MCS Capital LLC c/o STC, Inc. re: Lynn Pinker Cox & Hurst, LLP (Claim No. 148)</i> ; and 2) <i>Notice of Transfer for Argo Partners re: Stanton Advisors LLC (Scheduled Amount \$10,000.00)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1165</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 1 Transferors: Stanton Advisors LLC (Amount \$10,000.00) To Argo Partners. Filed by Creditor Argo Partners. filed by Creditor Argo Partners, <u>1166</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Lynn Pinker Cox & Hurst, LLP (Claim No. 148, Amount \$507,430.34) To MCS Capital LLC c/o STC, Inc.. Filed by Creditor Argo Partners. filed by Creditor Argo Partners). (Kass, Albert)
11/12/2020	<u>1363</u> Certificate of mailing regarding appeal (RE: related document(s) <u>1347</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
11/12/2020	<u>1364</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1347</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order)) (Whitaker, Sheniqua)
11/12/2020	<u>1365</u> Agreed supplemental order regarding deposit of funds into the registry of the court (RE: related document(s) <u>821</u> Agreed order regarding deposit of funds into the registry of

	the Court.). Entered on 11/12/2020 (Okafor, M.)
11/12/2020	<u>1366</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2020 through August 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Attachments: # <u>1</u> Exhibit A—DSI Monthly Staffing Report for August 2020) (Annable, Zachery)
11/12/2020	<u>1367</u> Certificate of service re: <i>Notice of Hearing on Patrick Hagaman Daughertys Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1351</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Creditor Patrick Daugherty (Attachments: # 1 Exhibit A – Proposed Order)). Hearing to be held on 11/17/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1281</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/12/2020	<u>1368</u> Clerk's correspondence requesting to amend the notice of appeal from attorney for appellant. (RE: related document(s) <u>1339</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). Appellant Designation due by 11/20/2020. (Attachments: # 1 Exhibit)) Responses due by 11/16/2020. (Whitaker, Sheniqua)
11/12/2020	<u>1369</u> Amended notice of appeal filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1339</u> Notice of appeal). (Sosland, Martin)
11/12/2020	<u>1370</u> Notice of docketing notice of appeal. Civil Action Number: 3:20-cv-03390-X. (RE: related document(s) <u>1347</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order)) (Whitaker, Sheniqua)
11/13/2020	<u>1371</u> Order granting motion to appear pro hac vice adding Hayley R. Winograd for Highland Capital Management, L.P. (related document # <u>1360</u>) Entered on 11/13/2020. (Ecker, C.)
11/13/2020	<u>1372</u> Order granting motion to seal documents (related document # <u>1279</u>) Entered on 11/13/2020. (Ecker, C.)
11/13/2020	<u>1374</u> INCORRECT ENTRY. Incomplete Form. Certificate of mailing regarding appeal (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). Appellant Designation due by 11/20/2020. (Attachments: # 1 Exhibit)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua) Modified on 11/13/2020 (Whitaker, Sheniqua).
11/13/2020	<u>1375</u> Certificate of mailing regarding appeal (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). Appellant Designation due by 11/20/2020. (Attachments: # 1 Exhibit)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
11/13/2020	

	<u>1376</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Attachments: # 1 Exhibit)) (Whitaker, Sheniqua)
11/13/2020	<u>1377</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise & Plimpton LLP (Claim No. 94, Amount \$268,095.08) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas)
11/13/2020	<u>1378</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise & Plimpton LLP (Claim No. 97, Amount \$268,095.08) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas)
11/13/2020	<u>1379</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise & Plimpton LLP (Amount \$20,658.79) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas)
11/13/2020	<u>1380</u> WITHDRAWN per # <u>1421</u> . Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: DLA Piper LLC (US) (Amount \$1,318,730.36) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas) Modified on 11/19/2020 (Ecker, C.).
11/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (25.00). Receipt number 28267014, amount \$ 25.00 (re: Doc# <u>1377</u>). (U.S. Treasury)
11/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (25.00). Receipt number 28267014, amount \$ 25.00 (re: Doc# <u>1378</u>). (U.S. Treasury)
11/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (25.00). Receipt number 28267014, amount \$ 25.00 (re: Doc# <u>1379</u>). (U.S. Treasury)
11/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (25.00). Receipt number 28267014, amount \$ 25.00 (re: Doc# <u>1380</u>). (U.S. Treasury)
11/13/2020	<u>1381</u> Notice of docketing notice of appeal. Civil Action Number: 3:20-cv-03408-G. (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Attachments: # 1 Exhibit)) (Whitaker, Sheniqua)
11/13/2020	<u>1382</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i>). (Annable, Zachery)
11/13/2020	<u>1383</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan). (Annable, Zachery)
11/13/2020	<u>1384</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement). (Annable, Zachery)
11/13/2020	<u>1385</u> Support/supplemental document (<i>Redline Comparison of Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1383</u> Chapter 11 plan). (Annable, Zachery)

11/13/2020	<p><u>1386</u> Support/supplemental document (<i>Redline Comparison of Disclosure Statement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1384</u> Disclosure statement). (Annable, Zachery)</p>
11/13/2020	<p><u>1387</u> Certificate of service re: (<i>Supplemental Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P., <u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s)<u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document <u>1087</u>) Entered on 10/28/2020. (Okafor, M.), <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
11/13/2020	<p><u>1388</u> Witness and Exhibit List for <i>Hearing on Motion for Allowance of Claim</i> filed by Creditor Patrick Daugherty (RE: related document(s)<u>1281</u> Motion for leave – <i>Daugherty's Rule 3018</i>). (Attachments: # <u>1</u> Exhibit PHD-1 # <u>2</u> Exhibit PHD-2 # <u>3</u> Exhibit PHD-3 # <u>4</u> Exhibit PHD-4 # <u>5</u> Exhibit PHD-5 # <u>6</u> Exhibit PHD-6 # <u>7</u> Exhibit PHD-7 # <u>8</u> Exhibit PHD-8 # <u>9</u> Exhibit PHD-9 # <u>10</u> Exhibit PHD-10 # <u>11</u> Exhibit PHD-11 # <u>12</u> Exhibit PHD-12 # <u>13</u> Exhibit PHD-13 # <u>14</u> Exhibit PHD-14 # <u>15</u> Exhibit PHD-15 # <u>16</u> Exhibit</p>

	PHD-16 # <u>17</u> Exhibit PHD-17 # <u>18</u> Exhibit PHD-18 # <u>19</u> Exhibit PHD-19 # <u>20</u> Exhibit PHD-20 # <u>21</u> Exhibit PHD-21 # <u>22</u> Exhibit PHD-22 # <u>23</u> Exhibit PHD-23 # <u>24</u> Exhibit PHD-24 # <u>25</u> Exhibit PHD-25 # <u>26</u> Exhibit PHD-26 # <u>27</u> Exhibit PHD-27 # <u>28</u> Exhibit PHD-28 # <u>29</u> Exhibit PHD-29 # <u>30</u> Exhibit PHD-30 # <u>31</u> Exhibit PHD-31 # <u>32</u> Exhibit PHD-32 # <u>33</u> Exhibit PHD-33 # <u>34</u> Exhibit PHD-34 # <u>35</u> Exhibit PHD-35 # <u>36</u> Exhibit PHD-36 # <u>37</u> Exhibit PHD-37 # <u>38</u> Exhibit PHD-38 # <u>39</u> Exhibit PHD-39 # <u>40</u> Exhibit PHD-40 # <u>41</u> Exhibit PHD-41 # <u>42</u> Exhibit PHD-42) (Kathman, Jason)
11/13/2020	<u>1389</u> Notice (<i>Debtor's Notice of Filing of Supplement to the Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1383</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan).). (Attachments: # <u>1</u> Exhibit A—Form of Claimant Trust Agreement # <u>2</u> Exhibit B—Form of New GP LLC Documents # <u>3</u> Exhibit C—Form of Reorganized Limited Partnership Agreement # <u>4</u> Exhibit D—Form of Litigation Sub-Trust Agreement # <u>5</u> Exhibit E—Schedule of Retained Causes of Action # <u>6</u> Exhibit F—Form of New Frontier Note # <u>7</u> Exhibit G—Schedule of Employees # <u>8</u> Exhibit H—Form of Senior Employee Stipulation) (Annable, Zachery)
11/14/2020	<u>1390</u> BNC certificate of mailing. (RE: related document(s) <u>1364</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1347</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order))) No. of Notices: 1. Notice Date 11/14/2020. (Admin.)
11/15/2020	<u>1391</u> BNC certificate of mailing. (RE: related document(s) <u>1376</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Attachments: # 1 Exhibit))) No. of Notices: 2. Notice Date 11/15/2020. (Admin.)
11/15/2020	<u>1392</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1371</u> Order granting motion to appear pro hac vice adding Hayley R. Winograd for Highland Capital Management, L.P. (related document <u>1360</u>) Entered on 11/13/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 11/15/2020. (Admin.)
11/16/2020	<u>1393</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Peri). (Pomerantz, Jeffrey)
11/16/2020	<u>1394</u> SEALED document regarding: Exhibit 1 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<u>1395</u> SEALED document regarding: Exhibit 26 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<u>1396</u> SEALED document regarding: Exhibit 27 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)

11/16/2020	<u>1397</u> SEALED document regarding: Exhibit 36 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<u>1398</u> SEALED document regarding: Exhibit 37 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<u>1399</u> Notice (<i>Notice of Filing of Fourth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Annable, Zachery)
11/16/2020	<u>1400</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
11/16/2020	<u>1401</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: DLA Piper LLP (US) (Amount \$1,318,730.36) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas)
11/16/2020	<u>1402</u> Reply to (related document(s): <u>1337</u> Response filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/16/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (25.00). Receipt number 28270620, amount \$ 25.00 (re: Doc# <u>1401</u>). (U.S. Treasury)
11/16/2020	<u>1403</u> Exhibit List (<i>Appendix of Exhibits to Debtor's Reply in Support of Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1402</u> Reply). (Annable, Zachery)
11/16/2020	<u>1404</u> Objection to (related document(s): <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)

11/16/2020	<u>1405</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS REPLY BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGEMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Proposed Order) (Platt, Mark)
11/16/2020	<u>1406</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS OBJECTION AND JOINDER TO DEBTORS OBJECTION TO UBS AG, LONDON BRANCH AND UBS SECURITIES LLCS MOTION FOR TEMPORARY ALLOWANCE OF CLAIMS FOR VOTING PURPOSES PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 3018</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order) (Platt, Mark)
11/16/2020	<u>1407</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10.). (Hoffman, Juliana)
11/16/2020	<u>1408</u> Reply to (related document(s): <u>1337</u> Response filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B (slip sheet only)) (Platt, Mark)
11/16/2020	<u>1409</u> Objection to (related document(s): <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit A (slip sheet only) # <u>2</u> Exhibit B (slip sheet only) # <u>3</u> Exhibit C (slip sheet only) # <u>4</u> Exhibit D (slip sheet only)) (Platt, Mark)
11/16/2020	<u>1410</u> Certificate Amended Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10., <u>1407</u> Certificate (generic)). (Hoffman, Juliana)
11/16/2020	<u>1411</u> Reply to (related document(s): <u>1349</u> Objection filed by Debtor Highland Capital Management, L.P.) – <i>Daugherty's Reply in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Creditor Patrick Daugherty. (Kathman, Jason)
11/16/2020	<u>1412</u> Declaration re: <i>Michael S. Colvin in Support of Motion for Temporary Allowance of Claims for Voting Purposes</i> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1411</u> Reply). (Kathman, Jason)
11/17/2020	<u>1413</u> Witness and Exhibit List (<i>Debtor's Witness and Exhibit List for November 20, 2020 Hearing on Motions for Partial Summary Judgment on the UBS Claim and Motion for Temporary Allowance of the UBS Claim</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for summary judgment, <u>1215</u> Motion for summary judgment, <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>)). (Attachments: # <u>1</u> Exhibit 30) (Annable, Zachery)
11/17/2020	

	<p><u>1414</u> Witness and Exhibit List for November 20, 2020 Hearing on Motions for Partial Summary Judgment on the UBS Claim and Motion for Temporary Allowance of the UBS Claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)<u>1214</u> Motion for summary judgment, <u>1215</u> Motion for summary judgment, <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>)). (Platt, Mark)</p>
11/17/2020	<p><u>1415</u> Request for transcript regarding a hearing held on 11/17/2020. The requested turn-around time is hourly. (Edmond, Michael)</p>
11/17/2020	<p><u>1416</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,86). (Hoffman, Juliana)</p>
11/17/2020	<p><u>1417</u> Certificate of service re: 1) <i>Motion for Admission Pro Hac Vice of Hayley R. Winograd to Represent Highland Capital Management, L.P.</i>; 2) <i>Agreed Supplemental Order Regarding Deposit of Funds Into the Registry of the Court</i>; and 3) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2020 Through August 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1360</u> Motion to appear pro hac vice for Hayley R. Winograd. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1365</u> Agreed supplemental order regarding deposit of funds into the registry of the court (RE: related document(s)<u>821</u> Agreed order regarding deposit of funds into the registry of the court.). Entered on 11/12/2020 (Okafor, M.), <u>1366</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2020 through August 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Attachments: # 1 Exhibit A—DSI Monthly Staffing Report for August 2020) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/17/2020	<p><u>1418</u> Witness and Exhibit List (<i>UBS's Witness and Exhibit List for November 20, 2020 Hearing</i>) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)<u>1214</u> Motion for summary judgment, <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>)). (Attachments: # <u>1</u> Exhibit 26 – 28 # <u>2</u> Exhibit 29 # <u>3</u> Exhibit 30 # <u>4</u> Exhibit AG30 # <u>5</u> Exhibit AG31 # <u>6</u> Exhibit AG32 – AG46) (Sosland, Martin)</p>
11/17/2020	<p><u>1419</u> Court admitted exhibits date of hearing November 17, 2020 (RE: related document(s)<u>1281</u> Motion for leave – Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Filed by Creditor Patrick Daugherty., (COURT ADMITTED THE FOLLOWING EXHIBIT'S; PLAINTIFF'S PATRICK H. DAUGHERTY EXHIBIT'S #1 THROUGH #41 BY THOMAS UEBLER AND DEFENDANT DEBTOR'S EXHIBIT'S #A THROUGH #V & EXHIBIT'S #X1 & #X2 BY JOHN MORRIS) (Edmond, Michael) (Entered: 11/18/2020)</p>
11/17/2020	<p><u>1422</u> Hearing held on 11/17/2020. (RE: related document(s)<u>1281</u> Motion for leave – Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 filed by Creditor Patrick Daugherty) (Appearances: T. Uebler, J. Christensen, and J. Kathman for P. Daugherty; J. Morris and J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Claim estimated for voting purposes at \$9,134,019 for reasons stated on the record. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2020)</p>

11/18/2020	<u>1420</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from September 1, 2020 through September 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)
11/18/2020	<u>1421</u> Withdrawal [<i>Notice of Withdrawal of Notice of Transfer of Claim From Debevoise & Plimpton LLP to Contrarian Funds, LLC</i>] Filed by Creditor Contrarian Funds LLC (related document(s) <u>1380</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: DLA Piper LLC (US) (Amount \$1,318,730.36) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. filed by Creditor Contrarian Funds LLC). (Schneller, Douglas)
11/18/2020	<u>1423</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1382</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u> Exhibit M # <u>14</u> Exhibit N # <u>15</u> Exhibit O # <u>16</u> Exhibit P # <u>17</u> Exhibit Q # <u>18</u> Exhibit R # <u>19</u> Exhibit S # <u>20</u> Exhibit T # <u>21</u> Exhibit U # <u>22</u> Exhibit V # <u>23</u> Exhibit X-1 # <u>24</u> Exhibit X-2) (Annable, Zachery)
11/18/2020	<u>1424</u> Motion for leave (<i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery)
11/18/2020	<u>1425</u> Motion for expedited hearing(related documents <u>1424</u> Motion for leave) (<i>Debtor's Motion for an Expedited Hearing on the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreement</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
11/18/2020	<u>1426</u> Transcript regarding Hearing Held 11/17/2020 (90 pages) RE: Motion for Temporary Allowance of Claim (#1281). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/16/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1422</u> Hearing held on 11/17/2020. (RE: related document(s) <u>1281</u> Motion for leave - Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 filed by Creditor Patrick Daugherty) (Appearances: T. Uebler, J. Christensen, and J. Kathman for P. Daugherty; J. Morris and J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Claim estimated for voting purposes at \$9,134,019 for reasons stated on the record. Counsel to upload order.)). Transcript to be made available to the public on 02/16/2021. (Rehling, Kathy)
11/18/2020	<u>1427</u> Certificate of service re: <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from September 1, 2020 through September 30, 2020</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1420</u> Notice (generic)). (Annable, Zachery)
11/18/2020	<u>1428</u> Certificate of service re: <i>Documents Served on or Before November 14, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1371</u> Order granting motion to appear pro hac vice adding Hayley R. Winograd for Highland Capital Management, L.P. (related document <u>1360</u>) Entered on 11/13/2020. (Ecker, C.), <u>1382</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related

	<p>document(s)<u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i>). filed by Debtor Highland Capital Management, L.P., <u>1383</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1384</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1385</u> Support/supplemental document (<i>Redline Comparison of Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1383</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1386</u> Support/supplemental document (<i>Redline Comparison of Disclosure Statement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1384</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1389</u> Notice (<i>Debtor's Notice of Filing of Supplement to the Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1383</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan)). (Attachments: # 1 Exhibit A—Form of Claimant Trust Agreement # 2 Exhibit B—Form of New GP LLC Documents # 3 Exhibit C—Form of Reorganized Limited Partnership Agreement # 4 Exhibit D—Form of Litigation Sub-Trust Agreement # 5 Exhibit E—Schedule of Retained Causes of Action # 6 Exhibit F—Form of New Frontier Note # 7 Exhibit G—Schedule of Employees # 8 Exhibit H—Form of Senior Employee Stipulation) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/18/2020	<p><u>1429</u> Expedited Motion to file document under seal. (<i>UBS's Expedited Motion for Leave to File Documents Under Seal With UBS's Witness and Exhibit List for November 20, 2020 Hearing</i>) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)</p>
11/19/2020	<p><u>1430</u> Order granting motion to seal documents regarding the Redeemer Committee of the Highland Crusader Funds and Crusader Funds Reply Brief in Support of their Motion for Partial Summary Judgment and Joinder in the Debtors Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS AG, London Branch and UBS Securities LLC. (related document # <u>1405</u>) Entered on 11/19/2020. (Okafor, M.)</p>
11/19/2020	<p><u>1431</u> Order granting motion to seal documents regarding the Redeemer Committee of the Crusader Fund and the Crusader Funds Objection and Joinder to Debtors Objection to UBS AG, London Branch and UBS Securities LLCs Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018 (related document # <u>1406</u>) Entered on 11/19/2020. (Okafor, M.)</p>
11/19/2020	<p><u>1432</u> SEALED document regarding: REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS' OBJECTION AND JOINDER TO DEBTOR'S OBJECTION TO UBS AG, LONDON BRANCH AND UBS SECURITIES, LLC'S MOTION FOR TEMPORARY ALLOWANCE OF CLAIMS FOR VOTING PURPOSES PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 3018 per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)<u>1431</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D) (Platt, Mark)</p>
11/19/2020	<p><u>1433</u> SEALED document regarding: REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUNDS AND THE CRUSADER FUNDS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTOR'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC per court order filed by Interested Party Redeemer Committee</p>

	of the Highland Crusader Fund (RE: related document(s) <u>1430</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit B) (Platt, Mark)
11/19/2020	<u>1434</u> Notice of hearing (<i>Notice of Hearing on Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1424</u> Motion for leave (<i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1424</u> , (Annable, Zachery)
11/19/2020	<u>1435</u> Stipulation by Highland Capital Management, L.P. and MCS Capital, LLC. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1166</u> Assignment/Transfer of claim (Claims Agent)). (Annable, Zachery)
11/19/2020	<u>1436</u> Order granting motion for expedited hearing (Related Doc# <u>1425</u>)(document set for hearing: <u>1424</u> Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements) Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1424</u> , Entered on 11/19/2020. (Okafor, M.)
11/19/2020	<u>1437</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on November 20, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/19/2020	<u>1438</u> Notice (<i>Reservation of Rights of UBS Regarding Debtor's Motion for Approval of the Debtor's Proposed Disclosure Statement and Certain Solicitation and Notice Procedures</i>) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption), <u>1384</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement).). (Sosland, Martin)
11/19/2020	<u>1439</u> WITHDRAWN per docket # <u>1622</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) Filed by Interested Party James Dondero (Attachments: # <u>1</u> Proposed Order) (Assink, Bryan) Modified on 12/28/2020 (Ecker, C.).
11/19/2020	<u>1440</u> Order granting motion to seal documents with UBSs Witness and Exhibit List for November 20, 2020 Hearing (related document # <u>1429</u>) Entered on 11/19/2020. (Okafor, M.)
11/19/2020	<u>1441</u> SEALED document regarding: UBS's Witness and Exhibit List for November 20, 2020 Hearing per court order filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1440</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 26 # <u>2</u> Exhibit 27 # <u>3</u> Exhibit 28 # <u>4</u> Exhibit 30 # <u>5</u> Exhibit AG32 # <u>6</u> Exhibit AG33 # <u>7</u> Exhibit AG34 # <u>8</u> Exhibit AG35 # <u>9</u> Exhibit AG36 # <u>10</u> Exhibit AG37 # <u>11</u> Exhibit AG38 # <u>12</u> Exhibit AG39 # <u>13</u> Exhibit AG40 # <u>14</u> Exhibit AG41 # <u>15</u> Exhibit AG42 # <u>16</u> Exhibit AG43 # <u>17</u> Exhibit AG44 # <u>18</u> Exhibit AG45 # <u>19</u> Exhibit AG46) (Sosland, Martin)
11/19/2020	

	<p><u>1442</u> Certificate of service re: <i>Documents Served on November 16, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1399</u> Notice (<i>Notice of Filing of Fourth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2) filed by Debtor Highland Capital Management, L.P., <u>1400</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>1402</u> Reply to (related document(s): <u>1337</u> Response filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1403</u> Exhibit List (<i>Appendix of Exhibits to Debtor's Reply in Support of Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1402</u> Reply). filed by Debtor Highland Capital Management, L.P., <u>1404</u> Objection to (related document(s): <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/19/2020	<p><u>1443</u> Motion for expedited hearing(related documents <u>1439</u> Motion for leave) (<i>Request for Emergency Hearing on James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) Filed by Interested Party James Dondero (Attachments: # <u>1</u> Proposed Order) (Assink, Bryan)</p>
11/20/2020	<p><u>1444</u> Notice (<i>Revised Notice of Agenda of Matters Scheduled for Hearing on November 20, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1437</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on November 20, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P..). (Annable, Zachery)</p>
11/20/2020	<p><u>1445</u> Objection to disclosure statement (RE: related document(s)<u>1384</u> Disclosure statement) filed by Creditor Patrick Daugherty. (Kathman, Jason)</p>
11/20/2020	<p><u>1446</u> Request for transcript regarding a hearing held on 11/20/2020. The requested turn-around time is hourly. (Edmond, Michael)</p>
11/20/2020	<p><u>1447</u> WITHDRAWN per # <u>1460</u> Response opposed to (related document(s): <u>1424</u> Motion for leave (<i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Bonds, John) Modified on 11/23/2020 (Ecker, C.).</p>

11/20/2020	<u>1448</u> Application for compensation <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from October 1, 2020 through October 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/1/2020 to 10/31/2020, Fee: \$1,119,675.50, Expenses: \$19,132.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/11/2020. (Pomerantz, Jeffrey)
11/20/2020	<u>1449</u> Amended application for compensation <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from October 1, 2020 through October 31, 2020 (amended solely to include Exhibit A)</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/1/2020 to 10/31/2020, Fee: \$1,119,675.50, Expenses: \$19,132.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/11/2020. (Pomerantz, Jeffrey)
11/20/2020	<u>1450</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan). (Annable, Zachery)
11/20/2020	<u>1451</u> Support/supplemental document (<i>Interim Redline of Fourth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1450</u> Chapter 11 plan). (Annable, Zachery)
11/20/2020	<u>1452</u> Support/supplemental document (<i>Cumulative Redline of Fourth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1450</u> Chapter 11 plan). (Annable, Zachery)
11/20/2020	<u>1453</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement). (Annable, Zachery)
11/20/2020	<u>1454</u> Support/supplemental document (<i>Interim Redline of Disclosure Statement for the Fourth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1453</u> Disclosure statement). (Annable, Zachery)
11/20/2020	<u>1455</u> Support/supplemental document (<i>Cumulative Redline of Disclosure Statement for the Fourth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1453</u> Disclosure statement). (Annable, Zachery)
11/20/2020	<u>1456</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1369</u> Amended notice of appeal). Appellee designation due by 12/4/2020. (Sosland, Martin)
11/20/2020	<u>1457</u> Certificate of service re: (<i>Supplemental Documents Served on October 28, 2020</i>) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , filed by Debtor Highland Capital Management, L.P., <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>)) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u>

	<p>Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P., <u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s)<u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document <u>1087</u>) Entered on 10/28/2020. (Okafor, M.), <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
11/20/2020	<p>1462 Hearing held on 11/20/2020. (RE: related document(s)<u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P., (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.,) (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as announced on the record. Counsel to submit an Order and Judgment.) (Edmond, Michael) (Entered: 11/23/2020)</p>
11/20/2020	<p>1463 Hearing held on 11/20/2020. (RE: related document(s)<u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds' (Attachments: # 1 Proposed Order) (RE: Related document(s) <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund). (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as announced on the record. Counsel to submit an Order and Judgment.) (Edmond, Michael) (Entered: 11/23/2020)</p>
11/20/2020	<p>1464 Hearing held on 11/20/2020. (RE: related document(s)<u>1338</u> Motion to allow claims (Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018) filed by Interested Parties UBS AG London Branch, UBS Securities LLC.,) (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as follows: UBS shall have a voting claim estimated at \$94.76 million. Counsel for UBS to submit an Order.) (Edmond, Michael) (Entered: 11/23/2020)</p>

11/23/2020	<u>1458</u> Clerk's correspondence requesting Amended designation from attorney for creditor. (RE: related document(s) <u>1456</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1369</u> Amended notice of appeal). Appellee designation due by 12/4/2020.) Responses due by 11/25/2020. (Blanco, J.)
11/23/2020	<u>1459</u> Reply to (related document(s): <u>1447</u> Response filed by Interested Party James Dondero) (<i>Debtor's Reply in Support of the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/23/2020	<u>1460</u> Withdrawal filed by Interested Party James Dondero (RE: related document(s) <u>1447</u> Response). (Assink, Bryan)
11/23/2020	<u>1461</u> Objection to (related document(s): <u>1443</u> Motion for expedited hearing(related documents <u>1439</u> Motion for leave) (<i>Request for Emergency Hearing on James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Co</i> filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/23/2020	<u>1465</u> Reply to (related document(s): <u>1461</u> Objection filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
11/23/2020	<u>1466</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s) <u>1347</u> Notice of appeal). Appellee designation due by 12/7/2020. (Assink, Bryan)
11/23/2020	<u>1467</u> Notice of hearing filed by Interested Party James Dondero (RE: related document(s) <u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) Filed by Interested Party James Dondero (Attachments: # 1 Proposed Order)). Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u> , (Assink, Bryan)
11/23/2020	<u>1468</u> Certificate of service re: <i>re: 1) WebEx Meeting Invitation to participate electronically in the hearing on Tuesday, November 20, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan; 2) Instructions for any counsel and parties who wish to participate in the Hearing; and 3) Debtors Witness and Exhibit List for November 20, 2020 Hearing on Motions for Partial Summary Judgment on the UBS Claim and Motion for Temporary Allowance of the UBS Claim</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1413</u> Witness and Exhibit List (<i>Debtor's Witness and Exhibit List for November 20, 2020 Hearing on Motions for Partial Summary Judgment on the UBS Claim and Motion for Temporary Allowance of the UBS Claim</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for summary judgment, <u>1215</u> Motion for summary judgment, <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>)). (Attachments: # 1 Exhibit 30) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/23/2020	<u>1469</u> Certificate of service re: <i>1) Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements; and 2) Debtors Motion for an Expedited Hearing on the Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) for Authority to Enter Into Sub-Servicer Agreement</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1424</u> Motion for leave (<i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C) filed by Debtor Highland Capital

	<p>Management, L.P., <u>1425</u> Motion for expedited hearing(related documents <u>1424</u> Motion for leave) (<i>Debtor's Motion for an Expedited Hearing on the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreement</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/23/2020	<p><u>1470</u> Certificate of service re: <i>Documents Served on November 19, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1434</u> Notice of hearing (<i>Notice of Hearing on Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1424</u> Motion for leave (<i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1424</u>, filed by Debtor Highland Capital Management, L.P., <u>1435</u> Stipulation by Highland Capital Management, L.P. and MCS Capital, LLC. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1166</u> Assignment/Transfer of claim (Claims Agent)). filed by Debtor Highland Capital Management, L.P., <u>1436</u> Order granting motion for expedited hearing (Related Doc<u>1425</u>)(document set for hearing: <u>1424</u> Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements) Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1424</u>, Entered on 11/19/2020. (Okafor, M.), <u>1437</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on November 20, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/23/2020	<p><u>1478</u> Hearing held on 11/23/2020. (RE: related document(s)<u>1424</u> Motion for leave (Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 11/24/2020)</p>
11/23/2020	<p><u>1479</u> Hearing held on 11/23/2020. (RE: related document(s)<u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement).) (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Disclosure Statement approved as adequate. Confirmation hearing will be held 1/13/21 at 9:30 am and continuing on 1/14/21 at 9:30 (if necessary). Counsel to upload order.) (Edmond, Michael) (Entered: 11/24/2020)</p>
11/23/2020	<p><u>1480</u> Hearing held on 11/23/2020. (RE: related document(s)<u>1108</u> Motion for leave (Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Motion granted. Confirmation hearing will be held 1/13/21 at 9:30 am and continuing on 1/14/21 at 9:30 (if necessary). Counsel to upload order.) (Edmond, Michael) (Entered: 11/24/2020)</p>
11/24/2020	<p><u>1471</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>1154</u> Motion for leave <i>to Amend Certain Proofs of Claim</i> Filed by Creditor The Dugaboy Investment Trust Objections due by 10/30/2020. (Attachments: # 1 Proposed</p>

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	Order)) Responses due by 12/8/2020. (Ecker, C.)
11/24/2020	<u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). (Annable, Zachery)
11/24/2020	<u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). (Annable, Zachery)
11/24/2020	<u>1474</u> Order Granting Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Filed by Creditor Patrick Daugherty (related document # <u>1281</u>) Entered on 11/24/2020. (Okafor, M.)
11/24/2020	<u>1475</u> Order Granting Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements (related document # <u>1424</u>) Entered on 11/24/2020. (Okafor, M.)
11/24/2020	<u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)
11/24/2020	<u>1477</u> Order approving stipulation resolving proof of claim no. 148 filed by Lynn Pinker Cox & Hurst, LLP (RE: related document(s) <u>1435</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 11/24/2020 (Okafor, M.)
11/25/2020	<u>1481</u> Clerk's correspondence requesting Amended designation from attorney for creditor. (RE: related document(s) <u>1466</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s) <u>1347</u> Notice of appeal). Appellee designation due by 12/7/2020.) Responses due by 12/2/2020. (Blanco, J.)
11/25/2020	<u>1482</u> Transcript regarding Hearing Held 11/20/2020 (223 pages) RE: Motions for Partial Summary Judgment; Motion to Allow Claims for Voting Purposes. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/23/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1462</u> Hearing held on 11/20/2020. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P., (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.,) (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as announced on the record. Counsel to submit an Order and Judgment.), <u>1463</u> Hearing held on 11/20/2020. (RE: related document(s) <u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds' (Attachments: # 1 Proposed Order) (RE: Related document(s) <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund). (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as announced on the record. Counsel to submit an Order and Judgment.), <u>1464</u> Hearing held

	on 11/20/2020. (RE: related document(s) <u>1338</u> Motion to allow claims (Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018) filed by Interested Parties UBS AG London Branch, UBS Securities LLC.) (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as follows: UBS shall have a voting claim estimated at \$94.76 million. Counsel for UBS to submit an Order.)). Transcript to be made available to the public on 02/23/2021. (Rehling, Kathy)
11/25/2020	<u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B/Proposed Order # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H) (O'Neil, Holland)
11/25/2020	<u>1484</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1456</u> Appellant designation, Statement of issues on appeal). (Sosland, Martin)
11/25/2020	<u>1485</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
11/26/2020	<u>1486</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1474</u> Order Granting Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Filed by Creditor Patrick Daugherty (related document <u>1281</u>) Entered on 11/24/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 11/26/2020. (Admin.)
11/26/2020	<u>1487</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1477</u> Order approving stipulation resolving proof of claim no. 148 filed by Lynn Pinker Cox & Hurst, LLP (RE: related document(s) <u>1435</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 11/24/2020 (Okafor, M.)) No. of Notices: 1. Notice Date 11/26/2020. (Admin.)
11/27/2020	<u>1488</u> Certificate of service re: <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from October 1, 2020 through October 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1449</u> Amended application for compensation <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from October 1, 2020 through October 31, 2020 (amended solely to include Exhibit A)</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/1/2020 to 10/31/2020, Fee: \$1,119,675.50, Expenses: \$19,132.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/11/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/30/2020	<u>1489</u> Order granting motion to continue hearing on (related document # <u>1485</u>) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i>) Hearing to be held on 12/10/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , Entered on 11/30/2020. (Ecker, C.)
11/30/2020	<u>1490</u> Application for compensation <i>Sidley Austin LLP's Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/1/2020 to 10/31/2020, Fee: \$537,841.80, Expenses: \$3,125.47. Filed by Objections due by 12/21/2020. (Hoffman, Juliana)
11/30/2020	

	<u>1491</u> Motion for relief from stay Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 12/14/2020. (Attachments: # <u>1</u> Exhibit Declaration of Patrick Daugherty in Support of Motion to Lift the Automatic Stay) (Kathman, Jason)
12/01/2020	<u>1492</u> Clerk's correspondence requesting exhibits from attorney for plaintiff. (RE: related document(s) <u>1484</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1456</u> Appellant designation, Statement of issues on appeal).) Responses due by 12/14/2020. (Blanco, J.)
12/01/2020	<u>1493</u> Debtor-in-possession monthly operating report for filing period October 1, 2020 to October 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/01/2020	<u>1494</u> Notice of hearing on <i>Daugherty's Motion to Lift the Automatic Stay</i> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1491</u> Motion for relief from stay Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 12/14/2020. (Attachments: # <u>1</u> Exhibit Declaration of Patrick Daugherty in Support of Motion to Lift the Automatic Stay)). Preliminary hearing to be held on 12/17/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. (Attachments: # <u>1</u> Creditor Matrix) (Kathman, Jason)
12/01/2020	<u>1495</u> Certificate of service re: <i>1) Debtor's Reply in Support of the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements; and 2) Debtors Objection to Request for Emergency Hearing Filed by James Dondero [Docket No. 1443]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1459</u> Reply to (related document(s): <u>1447</u> Response filed by Interested Party James Dondero) (<i>Debtor's Reply in Support of the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1461</u> Objection to (related document(s): <u>1443</u> Motion for expedited hearing(related documents <u>1439</u> Motion for leave) (<i>Request for Emergency Hearing on James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Co</i> filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/01/2020	<u>1496</u> Certificate of service re: <i>1) Order Granting Patrick Hagaman Daughertys Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018; 2) Pursuant to 11 U.S.C. §§ 105(a) and 363(b) for Authority to Enter Into Sub-Servicer Agreements; and 3) Order Approving Stipulation Resolving Proof of Claim No. 148 Filed by Lynn Pinker Cox & Hurst, LLP</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1474</u> Order Granting Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Filed by Creditor Patrick Daugherty (related document <u>1281</u>) Entered on 11/24/2020. (Okafor, M.), <u>1475</u> Order Granting Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements (related document <u>1424</u>) Entered on 11/24/2020. (Okafor, M.), <u>1477</u> Order approving stipulation resolving proof of claim no. 148 filed by Lynn Pinker Cox & Hurst, LLP (RE: related document(s) <u>1435</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 11/24/2020 (Okafor, M.)). (Kass, Albert)
12/01/2020	<u>1497</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s) <u>1466</u> Appellant designation, Statement of issues on appeal). (Assink, Bryan)
12/02/2020	Receipt of filing fee for Motion for relief from stay(19-34054-sgj11) [motion,mrlfsty] (181.00). Receipt number 28309234, amount \$ 181.00 (re: Doc# <u>1491</u>). (U.S. Treasury)
12/02/2020	

	<p><u>1498</u> Notice of hearing filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s)<u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B/Proposed Order # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (O'Neil, Holland)). Hearing to be held on 1/6/2021 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1483</u>, (O'Neil, Holland)</p>
12/02/2020	<p><u>1499</u> Certificate of service re: 1) <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 Through October 31, 2020</i>; and 2) <i>Joint Motion to Continue Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B/Proposed Order # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>1485</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/03/2020	<p><u>1500</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Katten Muchin Rosenman LLP (Claim No. 26, Amount \$16,695.00) To Cedar Glade LP. Filed by Creditor Cedar Glade LP. (Attachments: # <u>1</u> Evidence of Transfer) (Tanabe, Kesha)</p>
12/03/2020	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (26.00). Receipt number 28312406, amount \$ 26.00 (re: Doc# <u>1500</u>). (U.S. Treasury)</p>
12/03/2020	<p><u>1501</u> Request for transcript regarding a hearing held on 11/23/2020. The requested turn-around time is hourly. (Edmond, Michael)</p>
12/03/2020	<p><u>1502</u> Stipulation by James Dondero and Highland Capital Management, L.P.. filed by Interested Party James Dondero (RE: related document(s)<u>1179</u> Objection to claim). (Assink, Bryan)</p>
12/03/2020	<p><u>1503</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from October 1, 2020 through October 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
12/03/2020	<p><u>1504</u> Certificate of service re: Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from October 1, 2020 through October 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1503</u> Notice (generic)). (Annable, Zachery)</p>
12/03/2020	

	<p><u>1505</u> Certificate of service re: <i>Debtor's Notice of Affidavit of Publication of the Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm Plan; and (III) Related Important Dates in the New York Times</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). (Kass, Albert)</p>
12/03/2020	<p><u>1506</u> Certificate of service re: 1) <i>Order Granting Joint Motion to Continue Hearing; and 2) Twelfth Monthly Application of Sidley Austin for Allowance of Compensation and Reimbursement of Expenses for the Period from October 1, 2020 to and Including October 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1489</u> Order granting motion to continue hearing on (related document <u>1485</u>) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i>) Hearing to be held on 12/10/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u>, Entered on 11/30/2020. (Ecker, C.), <u>1490</u> Application for compensation <i>Sidley Austin LLP's Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/1/2020 to 10/31/2020, Fee: \$537,841.80, Expenses: \$3,125.47. Filed by Objections due by 12/21/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
12/03/2020	<p><u>1507</u> Transcript regarding Hearing Held 11/23/2020 (42 pages) RE: Disclosure Statement Hearing; Motion to Enter into Sub-Servicer Agreements; Motion for Order Shortening Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/3/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1478 Hearing held on 11/23/2020. (RE: related document(s)<u>1424</u> Motion for leave (Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Motion granted. Counsel to upload order.), <u>1479</u> Hearing held on 11/23/2020. (RE: related document(s)<u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement).) (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Disclosure Statement approved as adequate. Confirmation hearing will be held 1/13/21 at 9:30 am and continuing on 1/14/21 at 9:30 (if necessary). Counsel to upload order.), <u>1480</u> Hearing held on 11/23/2020. (RE: related document(s)<u>1108</u> Motion for leave (Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Motion granted. Confirmation hearing will be held 1/13/21 at 9:30 am and continuing on 1/14/21 at 9:30 (if necessary). Counsel to upload order.)). Transcript to be made available to the public on 03/3/2021. (Rehling, Kathy)</p>
12/03/2020	

	<p><u>1883</u> INCORRECT ENTRY – Agreed Notice of voluntary dismissal of appeals filed by Allied World Assurance Company (RE: related document(s)<u>1347</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero (RE: related document(s)<u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order)). (Blanco, J.) Modified on 2/2/2021 (Blanco, J.). (Entered: 02/02/2021)</p>
12/04/2020	<p><u>1508</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Daniel Sheehan & Associates, PLLC (Claim No. 47, Amount \$32,433.75) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. (Knox, Victor)</p>
12/04/2020	<p><u>1509</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Vengroff Williams Inc (American Arbitration Assoc (Claim No. 33, Amount \$12,911.80) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. (Knox, Victor)</p>
12/04/2020	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (26.00). Receipt number 28315512, amount \$ 26.00 (re: Doc# <u>1508</u>). (U.S. Treasury)</p>
12/04/2020	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (26.00). Receipt number 28315512, amount \$ 26.00 (re: Doc# <u>1509</u>). (U.S. Treasury)</p>
12/04/2020	<p><u>1510</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim 138 and 188 (RE: related document(s)<u>1502</u> Stipulation filed by Interested Party James Dondero). Entered on 12/4/2020 (Ecker, C.)</p>
12/04/2020	<p><u>1511</u> Certificate of service re: <i>(Supplemental) Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P., <u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s)<u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP</p>

	<p>LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document 1087) Entered on 10/28/2020. (Okafor, M.), 1309 Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1108 Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) 1079 Chapter 11 plan, 1080 Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for 1108, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
12/07/2020	<p>1512 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Foley Gardere, Foley Lardner LLP To Hain Capital Investors Master Fund, Ltd. Filed by Creditor Hain Capital Group, LLC. (Rapoport, Amanda)</p>
12/07/2020	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims.trclmagt] (26.00). Receipt number 28320856, amount \$ 26.00 (re: Doc# 1512). (U.S. Treasury)</p>
12/07/2020	<p>1513 Application for compensation <i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/1/2020 to 10/31/2020, Fee: \$196,216.20, Expenses: \$264.23. Filed by Attorney Juliana Hoffman Objections due by 12/28/2020. (Hoffman, Juliana)</p>
12/07/2020	<p>1514 Adversary case 20-03190. Complaint by Highland Capital Management, L.P. against James D. Dondero. Fee Amount \$350 (Attachments: # 1 Adversary Cover Sheet). Nature(s) of suit: 72 (Injunctive relief – other). (Annable, Zachery)</p>
12/07/2020	<p>1515 Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party James Dondero (RE: related document(s)1466 Appellant designation, Statement of issues on appeal, 1497 Appellant designation, Statement of issues on appeal). (Assink, Bryan)</p>
12/07/2020	<p>1516 Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1347 Notice of appeal, 1369 Amended notice of appeal). (Annable, Zachery)</p>
12/07/2020	<p>1517 Appellee designation of contents for inclusion in record of appeal filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s)1347 Notice of appeal). (Chiarello, Annmarie)</p>
12/08/2020	<p>1518 Order temporarily granting UBS' motion to allow claim number(s) (related document # 1338) Entered on 12/8/2020. (Ecker, C.)</p>
12/08/2020	<p>1519 Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)1280 Motion for leave <i>to Amend Proof of Claim No. 77</i> Filed by Creditor Patrick Daugherty Objections due by 11/16/2020. (Attachments: # 1 Exhibit A – Proposed Order # 2 Exhibit B – Second Amended Proof of Claim)) Responses due by 12/22/2020. (Ecker, C.)</p>
12/08/2020	<p>1520 Application for compensation (<i>Ninth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i>) for Hayward &</p>

	Associates PLLC, Debtor's Attorney, Period: 8/1/2020 to 12/31/2020, Fee: \$27,465.00, Expenses: \$859.43. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—August 2020 Invoice) (Annable, Zachery)
12/08/2020	<u>1521</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor for the Period from November 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 11/1/2020 to 11/30/2020, Fee: \$759,428.00, Expenses: \$1,672.80. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/29/2020. (Pomerantz, Jeffrey)
12/08/2020	<u>1522</u> INCORRECT EVENT: See # <u>1528</u> for correction. Motion to compel Temporary Restriction of Sales by Non-Debtors CLOs. Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Attachments: # <u>1</u> Affidavit # <u>2</u> Proposed Order) (Varshosaz, Artoush) Modified on 12/9/2020 (Ecker, C.).
12/08/2020	<u>1523</u> Motion for expedited hearing(related documents <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund. Modified linkage on 12/9/2020 (Ecker, C.).
12/08/2020	<u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager , to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P. , Highland Fixed Income Fund , NexPoint Advisors, L.P. , NexPoint Capital, Inc. , NexPoint Strategic Opportunities Fund . (Ecker, C.) (Entered: 12/09/2020)
12/09/2020	<u>1524</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/09/2020	<u>1525</u> Request for transcript regarding a hearing held on 1/9/2020. The requested turn-around time is hourly. (Edmond, Michael)
12/09/2020	<u>1526</u> Order granting partial summary judgment (related document # <u>1214</u>) Entered on 12/9/2020. (Ecker, C.)
12/09/2020	<u>1527</u> Order granting joint motion to continue hearing on (related document # <u>1524</u>) (related documents Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan) Entered on 12/9/2020. (Ecker, C.)
12/09/2020	<u>1529</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1179</u> Objection to claim). (Annable, Zachery)
12/09/2020	<u>1530</u> Motion to extend time to Time to File An Adversary Proceeding Against CLO Holdco, Ltd. (Agreed) (RE: related document(s) <u>1168</u> Order (generic)) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 12/30/2020. (Montgomery, Paige)
12/09/2020	<u>1531</u> Application for compensation (<i>Tenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from September 1, 2020 through September 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 9/1/2020 to 9/30/2020, Fee: \$25,075.00, Expenses: \$132.60. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A September 2020 Invoice) (Annable, Zachery)

12/09/2020	<u>1532</u> Notice (<i>Notice of Stipulation Resolving Proof of Claim No. 164 Filed by Berkeley Research Group, LLC</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/10/2020	<u>1533</u> Order granting motion to amend proof of claim #77 and to file supporting documents under seal. (related document # <u>1280</u>) Entered on 12/10/2020. (Ecker, C.)
12/10/2020	<u>1534</u> Order granting <u>1530</u> Motion to extend time. (Re: related document(s) <u>1530</u> Motion to extend time to Time to File An Adversary Proceeding Against CLO Holdco, Ltd. (Agreed) (RE: related document(s) <u>1168</u> Order (generic))) Entered on 12/10/2020. (Ecker, C.)
12/10/2020	<u>1535</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1207</u> , (Annable, Zachery)
12/10/2020	<u>1536</u> Stipulation by Highland Capital Management, L.P. and NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>906</u> Objection to claim). (Annable, Zachery)
12/10/2020	<u>1537</u> Order regarding objection to claim number(s) (RE: related document(s) <u>1179</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 12/10/2020 (Ecker, C.)
12/10/2020	<u>1538</u> Order approving stipulation resolving proof of claim #164 (RE: related document(s) <u>1532</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 12/10/2020 (Ecker, C.)
12/10/2020	<u>1539</u> Notice of hearing on <i>Motion Imposing Restrictions on Debtor's Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles</i> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager, to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. (Ecker, C.)). Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1528</u> , (Varshosaz, Artoush)
12/10/2020	<u>1540</u> Certificate of service re: <i>Twelfth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from October 1, 2020 to and Including October 31, 2020; and 2) Appellees Counter-Designation of Record on Appeal</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1513</u> Application for compensation <i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/1/2020 to 10/31/2020, Fee: \$196,216.20, Expenses: \$264.23. Filed by Attorney Juliana Hoffman Objections due by 12/28/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1516</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1347</u> Notice of appeal, <u>1369</u> Amended notice of appeal). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/10/2020	<u>1541</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1518</u> Order temporarily granting UBS' motion to allow claim number(s) (related document <u>1338</u>) Entered on 12/8/2020. (Ecker, C.)) No. of Notices: 2. Notice Date 12/10/2020. (Admin.)
12/11/2020	

	<p><u>1542</u> Support/supplemental document/<i>Supplement to the Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s)<u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Proposed Order /Exhibit E) (O'Neil, Holland)</p>
12/11/2020	<p><u>1543</u> Transcript regarding Hearing Held 01/09/2020 (91 pages) RE: Motion to Compromise Controversy (#281). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/11/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) Hearing held on 1/9/2020. (RE: related document(s)<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, I. Kharasch, G. Demo, M. Hayward, and Z. Annabel for Debtor; M. Clemente, P. Reid and D. Tumi for Unsecured Creditors Committee; A. Chiarello and R. Patel for Asic; L. Lambert for UST; J. Bentley and J. Bain (both telephonically) for CLO and CDO Issuer Group; T. Mascherin and M. Hankin (telephonically) for Redeemer Committee; P. Maxcy (telephonically) for Jeffries. Evidentiary hearing. Motion granted. Counsel to upload appropriate form of order.)). Transcript to be made available to the public on 03/11/2021. (Rehling, Kathy)</p>
12/11/2020	<p><u>1544</u> Application for compensation (<i>First Interim Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52. Filed by Spec. Counsel Hunton Andrews Kurth LLP (Hesse, Gregory)</p>
12/11/2020	<p><u>1545</u> Application for compensation (<i>Hayward & Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 9/30/2020, Fee: \$82,325.00, Expenses: \$1,972.63. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A Invoices for July, August, and September 2020) (Annable, Zachery)</p>
12/11/2020	<p><u>1546</u> Objection to (related document(s): <u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
12/11/2020	<p><u>1547</u> Application for compensation <i>Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 11/30/2020, Fee: \$3,380,111.50, Expenses: \$31,940.33. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 1/4/2021. (Pomerantz, Jeffrey)</p>
12/11/2020	<p><u>1548</u> Notice to take deposition of James P. Seery, Jr. filed by Interested Party James Dondero. (Assink, Bryan)</p>
12/11/2020	<p><u>1549</u> Notice to take deposition of John Dubel filed by Interested Party James Dondero. (Assink, Bryan)</p>
12/11/2020	<p><u>1550</u> Notice to take deposition of Russell Nelms filed by Interested Party James Dondero. (Assink, Bryan)</p>
12/11/2020	

	<p><u>1551</u> Objection to (related document(s): <u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) filed by Interested Party James Dondero) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)</p>
12/11/2020	<p><u>1552</u> Application for compensation (<i>Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period from July 1, 2020 through November 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Debtor's Attorney, Period: 7/1/2020 to 11/30/2020, Fee: \$709,256.22, Expenses: \$0.00. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Annable, Zachery)</p>
12/11/2020	<p><u>1553</u> Omnibus Notice of hearing (<i>Omnibus Notice of Hearing on Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1410</u> Certificate Amended Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s)<u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10., <u>1407</u> Certificate (generic))., <u>1416</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,86)., <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B/Proposed Order # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (O'Neil, Holland), <u>1542</u> Support/supplemental document/<i>Supplement to the Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s)<u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Proposed Order /Exhibit E) (O'Neil, Holland), <u>1544</u> Application for compensation (<i>First Interim Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52. Filed by Spec. Counsel Hunton Andrews Kurth LLP, <u>1545</u> Application for compensation (<i>Hayward & Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 9/30/2020, Fee: \$82,325.00, Expenses: \$1,972.63. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A Invoices for July, August, and September 2020), <u>1547</u> Application for compensation <i>Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 11/30/2020, Fee: \$3,380,111.50, Expenses: \$31,940.33. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 1/4/2021., <u>1552</u> Application for compensation (<i>Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period from July 1, 2020 through November 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Debtor's Attorney, Period: 7/1/2020 to 11/30/2020, Fee: \$709,256.22, Expenses: \$0.00. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A # 2 Exhibit B)). Hearing to be held on 1/6/2021 at 02:30 PM</p>

	Dallas Judge Jernigan Ctrm for <u>1483</u> and for <u>1544</u> and for <u>1545</u> and for <u>1547</u> and for <u>1552</u> and for <u>1410</u> and for <u>1416</u> and for <u>1542</u> , (Annable, Zachery)
12/11/2020	<u>1554</u> Notice to take deposition of Dustin Norris filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/11/2020	<u>1555</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/11/2020	<u>1556</u> Certificate of service re: <i>1) Ninth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020; and 2) Fourteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor for the Period from November 1, 2020 through November 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1520</u> Application for compensation (<i>Ninth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 8/1/2020 to 12/31/2020, Fee: \$27,465.00, Expenses: \$859.43. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—August 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <u>1521</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor for the Period from November 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 11/1/2020 to 11/30/2020, Fee: \$759,428.00, Expenses: \$1,672.80. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/29/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/11/2020	<u>1557</u> Certificate of service re: <i>Documents Served on December 9, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1524</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1526</u> Order granting partial summary judgment (related document <u>1214</u>) Entered on 12/9/2020. (Ecker, C.), <u>1527</u> Order granting joint motion to continue hearing on (related document <u>1524</u>) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i>) Entered on 12/9/2020. (Ecker, C.), <u>1530</u> Motion to extend time to Time to File An Adversary Proceeding Against CLO Holdco, Ltd. (Agreed) (RE: related document(s) <u>1168</u> Order (generic)) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 12/30/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1531</u> Application for compensation (<i>Tenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from September 1, 2020 through September 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 9/1/2020 to 9/30/2020, Fee: \$25,075.00, Expenses: \$132.60. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A September 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <u>1532</u> Notice (<i>Notice of Stipulation Resolving Proof of Claim No. 164 Filed by Berkeley Research Group, LLC</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/11/2020	<u>1639</u> Hearing set (RE: related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020., <u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,865,520.45, Expenses: \$18,678.47. Filed by Attorney Juliana Hoffman Objections due by 11/17/2020.)

	Hearing to be held on 1/6/2021 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1296</u> and for <u>1244</u> , (Ellison, T.) (Entered: 12/29/2020)
12/12/2020	<u>1558</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/13/2020	<u>1559</u> WITHDRAWN per # <u>1622</u> Subpoena on Jean Paul Sevilla filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Sevilla Subpoena) (Assink, Bryan) Modified on 12/28/2020 (Ecker, C.).
12/13/2020	<u>1560</u> WITHDRAWN per # <u>1622</u> Subpoena on Russell Nelms filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Nelms Subpoena) (Assink, Bryan) Modified on 12/28/2020 (Ecker, C.).
12/13/2020	<u>1561</u> WITHDRAWN per # <u>1622</u> Subpoena on Fred Caruso filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Caruso Subpoena) (Assink, Bryan) Modified on 12/28/2020 (Ecker, C.).
12/14/2020	<u>1562</u> Order granting motion for expedited hearing (Related Doc# <u>1523</u>)(document set for hearing: <u>1528</u> Generic motion) Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1528</u> , Entered on 12/14/2020. (Ecker, C.)
12/14/2020	<u>1563</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8) (Assink, Bryan)
12/14/2020	<u>1564</u> Motion to quash (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/14/2020	<u>1565</u> Motion for protective order (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/14/2020	<u>1566</u> Notice to take deposition of James P. Seery, Jr. filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. (Varshosaz, Artoush)
12/14/2020	<u>1567</u> Motion for expedited hearing(related documents <u>1564</u> Motion to quash, <u>1565</u> Motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/14/2020	<u>1568</u> Order approving stipulation and pre-trial schedule concerning Proof of Claim No. 146 filed by HCRE Partners, LLC (RE: related document(s) <u>1536</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 12/14/2020 (Okafor, M.)
12/14/2020	<u>1569</u> Objection to (related document(s): <u>1491</u> Motion for relief from stay Fee amount \$181, filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/14/2020	<u>1570</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Daugherty's Motion to Lift the Automatic Stay</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1569</u> Objection). (Attachments: # <u>1</u> Exhibit A #

	<u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E) (Annable, Zachery)
12/14/2020	<u>1571</u> Objection to (related document(s): <u>1564</u> Motion to quash (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena file filed by Debtor Highland Capital Management, L.P., <u>1565</u> Motion for protective order (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
12/14/2020	<u>1572</u> Witness and Exhibit List filed by Creditor Patrick Daugherty (RE: related document(s) <u>1491</u> Motion for relief from stay Fee amount \$181.). (Attachments: # <u>1</u> Exhibit PHD-1 # <u>2</u> Exhibit PHD-2 # <u>3</u> Exhibit PHD-3 # <u>4</u> Exhibit PHD-4 # <u>5</u> Exhibit PHD-5 # <u>6</u> Exhibit PHD-6) (Kathman, Jason)
12/14/2020	<u>1573</u> Witness and Exhibit List filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund.). (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit) (Varshosaz, Artoush)
12/14/2020	<u>1574</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>), <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund.). (Annable, Zachery)
12/15/2020	<u>1575</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1564</u> Motion to quash (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P., <u>1565</u> Motion for protective order (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1564</u> and for <u>1565</u> , (Annable, Zachery)
12/15/2020	<u>1576</u> Order granting motion for expedited hearing (Related Doc# <u>1567</u>)(document set for hearing: <u>1564</u> Motion to quash, <u>1565</u> Motion for protective order) Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1564</u> and for <u>1565</u> , Entered on 12/15/2020. (Okafor, M.)
12/15/2020	<u>1577</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to October 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
12/15/2020	<u>1578</u> Objection to (related document(s): <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland

	Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A-1 # <u>2</u> Exhibit A-2 # <u>3</u> Exhibit A-3 # <u>4</u> Exhibit B-1 # <u>5</u> Exhibit B-2 # <u>6</u> Exhibit B-3 # <u>7</u> Exhibit C (Part 1) # <u>8</u> Exhibit C (Part 2) # <u>9</u> Exhibit C (Part 3) # <u>10</u> Exhibit D (Part 1) # <u>11</u> Exhibit D (Part 2) # <u>12</u> Exhibit D (Part 3) # <u>13</u> Exhibit E # <u>14</u> Exhibit F # <u>15</u> Exhibit G) (Annable, Zachery)
12/15/2020	<u>1579</u> Amended Witness and Exhibit List (<i>Debtor's Amended Witness and Exhibit List with Respect to Evidentiary Hearing to Be Held on December 16, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1574</u> List (witness/exhibit/generic)). (Annable, Zachery)
12/15/2020	<u>1580</u> Objection to (related document(s): <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
12/15/2020	<u>1581</u> INCORRECT ENTRY: See # <u>1580</u> for correction. Joinder to debtor's response to motion for order imposing temporary restrictions on debtor's ability to initial sales by non-debtor CLO vehicles filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1578</u> Objection). (Ecker, C.) Modified on 12/16/2020 (Ecker, C.). (Entered: 12/16/2020)
12/16/2020	<u>1582</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: CVE Technologies Group Inc. (Amount \$1,500.00) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. (Knox, Victor)
12/16/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims.trclmagt] (26.00). Receipt number 28347173, amount \$ 26.00 (re: Doc# <u>1582</u>). (U.S. Treasury)
12/16/2020	<u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>816</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 1/6/2021. (Annable, Zachery)
12/16/2020	<u>1584</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1449</u> Amended application for compensation <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from October 1, 2020 through October 31, 2020 (amended solely to include Exhibit A)</i> for Jeffrey Nathan Pomer). (Pomerantz, Jeffrey)
12/16/2020	<u>1585</u> Court admitted exhibits date of hearing December 16, 2020 (RE: related document(s) <u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager , to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P. , Highland Fixed Income Fund , NexPoint Advisors, L.P. , NexPoint Capital, Inc. , NexPoint Strategic Opportunities Fund. (COURT ADMITTED EXHIBIT'S #A & #B BY JAMES WRIGHT) (Edmond, Michael)
12/16/2020	<u>1586</u> Request for transcript regarding a hearing held on 12/16/2020. The requested turn-around time is hourly. (Edmond, Michael)
12/16/2020	<u>1587</u> Certificate of service re: Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure filed by Debtor Highland Capital Management,

	L.P. (RE: related document(s) 1583 Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) 816 Order on motion to extend/shorten time)). (Annable, Zachery)
12/16/2020	1588 Certificate of service re: <i>Documents Served on December 10, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 1534 Order granting 1530 Motion to extend time. (Re: related document(s) 1530 Motion to extend time to Time to File An Adversary Proceeding Against CLO Holdco, Ltd. (Agreed) (RE: related document(s) 1168 Order (generic))) Entered on 12/10/2020. (Ecker, C.), 1535 Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 1207 Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for 1207 , filed by Debtor Highland Capital Management, L.P., 1536 Stipulation by Highland Capital Management, L.P. and NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 906 Objection to claim). filed by Debtor Highland Capital Management, L.P., 1537 Order regarding objection to claim number(s) (RE: related document(s) 1179 Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 12/10/2020 (Ecker, C.), 1538 Order approving stipulation resolving proof of claim #164 (RE: related document(s) 1532 Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 12/10/2020 (Ecker, C.)). (Kass, Albert)
12/16/2020	1589 Certificate of service re: <i>Documents Served on or Before December 12, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 1542 Support/supplemental document/ <i>Supplement to the Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) 1483 Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Proposed Order /Exhibit E) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, 1544 Application for compensation (<i>First Interim Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52. Filed by Spec. Counsel Hunton Andrews Kurth LLP filed by Interested Party Hunton Andrews Kurth LLP, Spec. Counsel Hunton Andrews Kurth LLP, 1545 Application for compensation (<i>Hayward & Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 9/30/2020, Fee: \$82,325.00, Expenses: \$1,972.63. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A Invoices for July, August, and September 2020) filed by Other Professional Hayward & Associates PLLC, 1546 Objection to (related document(s): 1439 Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., 1547 Application for compensation <i>Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 11/30/2020, Fee: \$3,380,111.50, Expenses: \$31,940.33. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 1/4/2021. filed by Debtor Highland Capital Management, L.P., 1551 Objection to (related document(s): 1439 Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) filed by Interested Party James Dondero) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors, 1552 Application for compensation (<i>Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of</i>

Expenses as Regulatory and Compliance Counsel for the Period from July 1, 2020 through November 30, 2020) for Wilmer Cutler Pickering Hale and Dorr LLP, Debtor's Attorney, Period: 7/1/2020 to 11/30/2020, Fee: \$709,256.22, Expenses: \$0.00. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP, 1553 Omnibus Notice of hearing (*Omnibus Notice of Hearing on Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals*) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1410 Certificate Amended Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s)1244 Application for compensation *Third Interim Application for Compensation and Reimbursement of Expenses* for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10., 1407 Certificate (generic)), 1416 Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)1296 Application for compensation *Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses* for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,86), 1483 Application for compensation *Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020* for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B/Proposed Order # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (O'Neil, Holland), 1542 Support/supplemental document/*Supplement to the Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor* filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s)1483 Application for compensation *Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020* for Foley Ga). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Proposed Order /Exhibit E) (O'Neil, Holland), 1544 Application for compensation (*First Interim Application*) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52. Filed by Spec. Counsel Hunton Andrews Kurth LLP, 1545 Application for compensation (*Hayward & Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020*) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 9/30/2020, Fee: \$82,325.00, Expenses: \$1,972.63. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A Invoices for July, August, and September 2020), 1547 Application for compensation *Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30, 2020* for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 11/30/2020, Fee: \$3,380,111.50, Expenses: \$31,940.33. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 1/4/2021., 1552 Application for compensation (*Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period from July 1, 2020 through November 30, 2020*) for Wilmer Cutler Pickering Hale and Dorr LLP, Debtor's Attorney, Period: 7/1/2020 to 11/30/2020, Fee: \$709,256.22, Expenses: \$0.00. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A # 2 Exhibit B)). Hearing to be held on 1/6/2021 at 02:30 PM Dallas Judge Jernigan Ctrm for 1483 and for 1544 and for 1545 and for 1547 and for 1552 and for 1410 and for 1416 and for 1542, filed by Debtor Highland Capital Management, L.P., 1554 Notice to take deposition of Dustin Norris filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., 1555 Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., 1558 Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

12/16/2020	1596 Hearing held on 12/16/2020. (RE: related document(s) 1528 Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager, to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wright for Movants; M. Clemente for UCC; R. Matsumura for HCLOF; J. Bain for CLO Issuers. Evidentiary hearing. Motion denied. Counsel to upload order.) (Edmond, Michael) (Entered: 12/18/2020)
12/16/2020	1597 Hearing held on 12/16/2020. (RE: related document(s) 1564 Motion to quash (Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment) (related documents 1559 Subpoena filed by Interested Party James Dondero, 1560 Subpoena filed by Interested Party James Dondero, 1561 Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Motion is moot and/or resolved. Counsel to upload agreed order.) (Edmond, Michael) (Entered: 12/18/2020)
12/16/2020	1598 Hearing held on 12/16/2020. (RE: related document(s) 1565 Motion for protective order (Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Motion is moot and/or resolved. Counsel to upload agreed order.) (Edmond, Michael) (Entered: 12/18/2020)
12/16/2020	1599 Hearing held on 12/16/2020. (RE: related document(s) 1439 Motion for leave (James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business) filed by Interested Party James Dondero.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Movant will withdraw this order. Counsel to upload agreed order.) (Edmond, Michael) (Entered: 12/18/2020)
12/17/2020	1590 Motion to pay (<i>Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C) (Annable, Zachery)
12/17/2020	1591 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Bates White LLC (Amount \$90,855.70) To Argo Partners. Filed by Creditor Argo Partners. (Gold, Matthew)
12/17/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (26.00). Receipt number 28350580, amount \$ 26.00 (re: Doc# 1591). (U.S. Treasury)
12/17/2020	1592 Certificate of service re: <i>Documents Served on or Before December 16, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 1564 Motion to quash (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) (related documents 1559 Subpoena filed by Interested Party James Dondero, 1560 Subpoena filed by Interested Party James Dondero, 1561 Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., 1565 Motion for protective order (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., 1567 Motion for expedited hearing(related documents 1564 Motion to quash, 1565 Motion for protective order) Filed by Debtor Highland Capital Management, L.P. filed by Debtor

	<p>Highland Capital Management, L.P., <u>1568</u> Order approving stipulation and pre-trial schedule concerning Proof of Claim No. 146 filed by HCRE Partners, LLC (RE: related document(s)<u>1536</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 12/14/2020 (Okafor, M.), <u>1569</u> Objection to (related document(s): <u>1491</u> Motion for relief from stay Fee amount \$181, filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1570</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Daugherty's Motion to Lift the Automatic Stay</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1569</u> Objection). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E) filed by Debtor Highland Capital Management, L.P., <u>1574</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>), <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/17/2020	<p><u>1593</u> Certificate of service re: <i>Documents Served on December 15, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1575</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1564</u> Motion to quash (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P., <u>1565</u> Motion for protective order (<i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i>) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1564</u> and for <u>1565</u>, filed by Debtor Highland Capital Management, L.P., <u>1576</u> Order granting motion for expedited hearing (Related Doc<u>1567</u>)(document set for hearing: <u>1564</u> Motion to quash, <u>1565</u> Motion for protective order) Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1564</u> and for <u>1565</u>, Entered on 12/15/2020. (Okafor, M.), <u>1577</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to October 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>1578</u> Objection to (related document(s): <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit A-3 # 4 Exhibit B-1 # 5 Exhibit B-2 # 6 Exhibit B-3 # 7 Exhibit C (Part 1) # 8 Exhibit C (Part 2) # 9 Exhibit C (Part 3) # 10 Exhibit D (Part 1) # 11 Exhibit D (Part 2) # 12 Exhibit D (Part 3) # 13 Exhibit E # 14 Exhibit F # 15 Exhibit G) filed by Debtor Highland Capital Management, L.P., <u>1579</u> Amended Witness and Exhibit List (<i>Debtor's Amended Witness and Exhibit List with Respect to Evidentiary Hearing to Be Held on December 16, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1574</u> List (witness/exhibit/generic)). filed by Debtor Highland Capital Management, L.P., <u>1580</u> Objection to (related document(s): <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party</p>

	NexPoint Strategic Opportunities Fund) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
12/17/2020	<u>1594</u> Adversary case 20-03195. Complaint by Official Committee of Unsecured Creditors against CLO Holdco, Ltd., Charitable DAF Holdco, Ltd., Charitable DAF Fund, LP, Highland Dallas Foundation, Inc., The Dugaboy Investment Trust, Grant James Scott III, James D. Dondero. Fee Amount \$350. Nature(s) of suit: 13 (Recovery of money/property – 548 fraudulent transfer). 91 (Declaratory judgment). 72 (Injunctive relief – other). 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Montgomery, Paige)
12/17/2020	1600 Hearing held on 12/17/2020. (RE: related document(s) <u>1491</u> Motion for relief from stay filed by Creditor Patrick Daugherty.) (Appearances: J. Kathman. J. Pomerantz and J. Morris for debtor. Motion denied.) (Edmond, Michael) (Entered: 12/18/2020)
12/18/2020	<u>1595</u> Notice of Appearance and Request for Notice <i>with Certificate of Service</i> by Douglas S. Draper filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
12/18/2020	<u>1601</u> Request for transcript regarding a hearing held on 12/17/2020. The requested turn-around time is daily. (Edmond, Michael)
12/18/2020	<u>1602</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1590</u> Motion to pay (<i>Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C)). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1590</u> , (Annable, Zachery)
12/18/2020	<u>1603</u> Order resolving motions and adjourning evidentiary hearing (RE: related document(s) <u>1439</u> Motion for leave filed by Interested Party James Dondero). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u> , Entered on 12/18/2020 (Ecker, C.)
12/18/2020	<u>1604</u> Certificate of No Objection filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (O'Neil, Holland)
12/18/2020	<u>1605</u> Order denying motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager , to initiate sales by non-debtor CLO Vehicles (related document # <u>1528</u>) Entered on 12/18/2020. (Okafor, M.)
12/18/2020	<u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit I—Schedule of Contracts and Leases to Be Assumed # <u>2</u> Exhibit J—Amended Form of Senior Employee Stipulation # <u>3</u> Exhibit K—Redline of Form of Senior Employee Stipulation) (Annable, Zachery)
12/18/2020	<u>1607</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) Filed by Interested Party James Dondero (Attachments: # 1 Proposed Order)). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u> , (Annable, Zachery)

12/18/2020	<p><u>1608</u> Certificate of service re: <i>(Supplemental) Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s)<u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document <u>1087</u>) Entered on 10/28/2020. (Okafor, M.), <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
12/19/2020	<p><u>1609</u> Transcript regarding Hearing Held 12/17/2020 (38 pages) RE: Motion for Relief from Stay (#1491). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/19/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1600 Hearing held on 12/17/2020. (RE: related document(s)<u>1491</u> Motion for relief from stay filed by Creditor Patrick Daugherty.) (Appearances: J. Kathman. J. Pomerantz and J. Morris for debtor. Motion denied.)). Transcript to be made available to the public on 03/19/2021. (Rehling, Kathy)</p>
12/19/2020	<p><u>1610</u> Transcript regarding Hearing Held 12/16/2020 (66 pages) RE: Motions. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/19/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1596 Hearing held on 12/16/2020. (RE: related document(s)<u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager, to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wright for Movants; M. Clemente for UCC; R. Matsumura for HCLOF; J. Bain for CLO Issuers. Evidentiary</p>

	<p>hearing. Motion denied. Counsel to upload order.), 1597 Hearing held on 12/16/2020. (RE: related document(s)<u>1564</u> Motion to quash (Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Motion is moot and/or resolved. Counsel to upload agreed order.), 1598 Hearing held on 12/16/2020. (RE: related document(s)<u>1565</u> Motion for protective order (Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Motion is moot and/or resolved. Counsel to upload agreed order.), 1599 Hearing held on 12/16/2020. (RE: related document(s)<u>1439</u> Motion for leave (James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business) filed by Interested Party James Dondero.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Movant will withdraw this order. Counsel to upload agreed order.)). Transcript to be made available to the public on 03/19/2021. (Rehling, Kathy)</p>
12/19/2020	<p><u>1611</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s)<u>1340</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 9/30/2020, Fee: \$170,859.60, Expenses: \$806.60.). (Hoffman, Juliana)</p>
12/21/2020	<p><u>1612</u> Order denying motion for relief from stay by Creditor Patrick Daugherty (related document # <u>1491</u>) Entered on 12/21/2020. (Okafor, M.)</p>
12/21/2020	<p><u>1613</u> Certificate of service re: <i>re: 1) Instructions for any counsel and parties who wish to participate in the Hearing; 2) Joinder of the Official Committee of Unsecured Creditors to Debtor's Response to Motion for Order Imposing Temporary Restrictions on Debtor's Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles; and 3) Debtors Motion Pursuant to the Protocols for Authority for Highland and Multi</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1581</u> INCORRECT ENTRY: See <u>1580</u> for correction. Joinder to debtor's response to motion for order imposing temporary restrictions on debtor's ability to initial sales by non-debtor CLO vehicles filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>1578</u> Objection). (Ecker, C.) Modified on 12/16/2020 (Ecker, C.). filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1590</u> Motion to pay (<i>Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/22/2020	<p><u>1614</u> Notice (<i>Notice of Stipulation Resolving Proof of Claim No. 99 Filed by Hunton Andrews Kurth LLP</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
12/22/2020	<p><u>1615</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>1490</u> Application for compensation <i>Sidley Austin LLP's Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/1/2020 to 10/31/2020, Fee: \$). (Hoffman, Juliana)</p>
12/22/2020	<p><u>1616</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>1283</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for Official</p>

	Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 9/30/2020, Fee: \$356,889.96, Expenses:). (Hoffman, Juliana)
12/23/2020	<u>1617</u> Order approving stipulation resolving Proof of Claim No. 99 filed by Hunton Andrews Kurth LLP (RE: related document(s) <u>1614</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 12/23/2020 (Okafor, M.)
12/23/2020	<u>1618</u> Notice (<i>Notice of Filing of Fifth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Annable, Zachery)
12/23/2020	<u>1619</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
12/23/2020	<u>1620</u> Motion to appear pro hac vice for A. Lee Hogewood. Fee Amount \$100 Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Varshosaz, Artoush)
12/23/2020	Receipt of filing fee for Motion to Appear pro hac vice(19–34054–sgj11) [motion,mprohac] (100.00). Receipt number 28366971, amount \$ 100.00 (re: Doc# <u>1620</u>). (U.S. Treasury)
12/23/2020	<u>1621</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
12/23/2020	<u>1622</u> Withdrawal (<i>Notice of Withdrawal of James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business and Related Notices of Subpoena</i>) filed by Interested Party James Dondero (RE: related document(s) <u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>)). (Assink, Bryan)
12/23/2020	<u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Proposed Order) (Hayward, Melissa)
12/23/2020	<u>1624</u> Motion to assume executory contract or unexpired lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Proposed Order) (Hayward, Melissa)
12/23/2020	<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)

12/23/2020	<p><u>1626</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/13/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1625</u>, (Annable, Zachery)</p>
12/23/2020	<p><u>1627</u> Certificate of service re: <i>Documents Served on December 18, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1602</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1590</u> Motion to pay (<i>Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C)). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1590</u>, filed by Debtor Highland Capital Management, L.P., <u>1603</u> Order resolving motions and adjourning evidentiary hearing (RE: related document(s)<u>1439</u> Motion for leave filed by Interested Party James Dondero). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u>, Entered on 12/18/2020 (Ecker, C.), <u>1605</u> Order denying motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager, to initiate sales by non-debtor CLO Vehicles (related document <u>1528</u>) Entered on 12/18/2020. (Okafor, M.), <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation) filed by Debtor Highland Capital Management, L.P., <u>1607</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1439</u> Motion for leave (<i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) Filed by Interested Party James Dondero (Attachments: # 1 Proposed Order)). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/23/2020	<p><u>1628</u> Certificate of service re: <i>Order Denying Patrick Daughertys Motion to Lift the Automatic Stay</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1612</u> Order denying motion for relief from stay by Creditor Patrick Daugherty (related document <u>1491</u>) Entered on 12/21/2020. (Okafor, M.) filed by Creditor Patrick Daugherty). (Kass, Albert)</p>
12/23/2020	<p><u>1629</u> Certificate of service re: <i>Stipulation Resolving Proof of Claim No. 99 Filed by Hunton Andrews Kurth LLP</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1614</u> Notice (<i>Notice of Stipulation Resolving Proof of Claim No. 99 Filed by Hunton Andrews Kurth LLP</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/23/2020	<p><u>1630</u> Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). (Kass, Albert)</p>

12/24/2020	<u>1631</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7) (Annable, Zachery)
12/24/2020	<u>1632</u> Application for compensation <i>Sidley Austin LLP's Thirteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/1/2020 to 11/30/2020, Fee: \$401,659.92, Expenses: \$3,643.80. Filed by Attorney Juliana Hoffman Objections due by 1/14/2021. (Hoffman, Juliana)
12/24/2020	<u>1633</u> Application for compensation <i>Thirteenth Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/1/2020 to 11/30/2020, Fee: \$201,148.56, Expenses: \$408.64. Filed by Attorney Juliana Hoffman Objections due by 1/14/2021. (Hoffman, Juliana)
12/24/2020	<u>1634</u> Support/supplemental document (<i>Exhibit A to the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.). (Annable, Zachery)
12/26/2020	<u>1635</u> Declaration re: <i>Supplemental Declaration of Matthew Clemente</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T</i>). (Hoffman, Juliana)
12/28/2020	<u>1636</u> Agreed order granting <u>1623</u> Motion to extend deadline to assume unexpired nonresidential real property lease and setting motion to assume for hearing at confirmation. Entered on 12/28/2020. (Okafor, M.)
12/28/2020	<u>1637</u> Certificate of service re: (<i>Supplemental</i>) <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1630</u> Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
12/28/2020	<u>1638</u> Certificate of service re: <i>Documents Served on December 23, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1617</u> Order approving stipulation resolving Proof of Claim No. 99 filed by Hunton Andrews Kurth LLP (RE:

	<p>related document(s)<u>1614</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 12/23/2020 (Okafor, M.), <u>1618</u> Notice (<i>Notice of Filing of Fifth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2) filed by Debtor Highland Capital Management, L.P., <u>1619</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>1621</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/29/2020	<p><u>1640</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s)<u>1513</u> Application for compensation <i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/1/2020 to 10/31/2020, Fee: \$196,216.20, Expenses: \$264.23.). (Hoffman, Juliana)</p>
12/30/2020	<p><u>1641</u> Order granting motion to appear pro hac vice adding A. Lee Hogewood, III for Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (related document # <u>1620</u>) Entered on 12/30/2020. (Okafor, M.)</p>
12/30/2020	<p><u>1642</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s)<u>1520</u> Application for compensation (<i>Ninth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i>) for Hayward & Ass). (Annable, Zachery)</p>
12/30/2020	<p><u>1643</u> Agreed Motion to substitute attorney David Neier with Frances A. Smith, Michelle Hartmann, and Debra A. Dandeneau Filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (Attachments: # <u>1</u> Proposed Order) (Smith, Frances)</p>
12/30/2020	<p><u>1644</u> Notice of Appearance and Request for Notice by Frances Anne Smith filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Smith, Frances)</p>
12/30/2020	<p><u>1645</u> Certificate of service re: Senior Employees Agreed Motion to Withdraw and Substitute Counsel of Record and Notice of Appearance filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s)<u>1643</u> Agreed Motion to substitute attorney David Neier with Frances A. Smith, Michelle Hartmann, and Debra A. Dandeneau, <u>1644</u> Notice of appearance and request for notice). (Smith, Frances)</p>
12/30/2020	<p><u>1646</u> Certificate of service re: <i>Documents Served on or Before December 24, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management,</p>

	<p>L.P., <u>1626</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/13/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1625</u>, filed by Debtor Highland Capital Management, L.P., <u>1631</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7) filed by Debtor Highland Capital Management, L.P., <u>1632</u> Application for compensation <i>Sidley Austin LLP's Thirteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/1/2020 to 11/30/2020, Fee: \$401,659.92, Expenses: \$3,643.80. Filed by Attorney Juliana Hoffman Objections due by 1/14/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1633</u> Application for compensation <i>Thirteenth Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/1/2020 to 11/30/2020, Fee: \$201,148.56, Expenses: \$408.64. Filed by Attorney Juliana Hoffman Objections due by 1/14/2021. filed by Financial Advisor FTI Consulting, Inc., <u>1634</u> Support/supplemental document (<i>Exhibit A to the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/30/2020	<p><u>1647</u> Certificate of service re: 1) <i>Supplemental Declaration of Matthew Clemente in Support of Application of the Official Committee of Unsecured Creditors, Pursuant to Sections 328 and 1103 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2014, for an Order Approving the Retention and Employment of Sidley Austin LLP as Counsel to the Official Committee of Unsecured Creditors; and 2) Agreed Order Extending Deadline to Assume Unexpired Nonresidential Real Property Lease and Setting Motion to Assume for Hearing at Confirmation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1635</u> Declaration re: <i>Supplemental Declaration of Matthew Clemente</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T</i>). filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1636</u> Agreed order granting <u>1623</u> Motion to extend deadline to assume unexpired nonresidential real property lease and setting motion to assume for hearing at confirmation. Entered on 12/28/2020. (Okafor, M.)). (Kass, Albert)</p>
12/30/2020	<p><u>1648</u> Notice (<i>Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)</p>
12/31/2020	

	<u>1649</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Creditor HarbourVest et al (Attachments: # <u>1</u> Proposed Order) (Driver, Vickie)
12/31/2020	<u>1650</u> Witness and Exhibit List filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5) (O'Neil, Holland)
12/31/2020	<u>1651</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>1531</u> Application for compensation (<i>Tenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from September 1, 2020 through September 30, 2020</i>) for Hayward). (Annable, Zachery)
12/31/2020	<u>1652</u> Order granting motion to continue hearing on (related document # <u>1649</u>) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i>) Hearing to be held on 1/13/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , Entered on 12/31/2020. (Okafor, M.)
12/31/2020	<u>1653</u> Certificate of service re: (<i>Supplemental</i>) <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.), <u>1630</u> Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
01/04/2021	<u>1654</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1521</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor for the Period from November 1, 2020 through November 30, 2020</i> for J). (Pomerantz, Jeffrey)
01/04/2021	<u>1655</u> Application for compensation <i>Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, Fee: \$710,280.45, Expenses: \$1,479.47. Filed by Attorney Juliana Hoffman Objections due by 1/25/2021. (Hoffman, Juliana)
01/04/2021	<u>1656</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by

	Debtor Highland Capital Management, L.P. (RE: related document(s) 1472 Chapter 11 plan). (Attachments: # 1 Exhibit L—Amended Schedule of Retained Causes of Action # 2 Exhibit M—Amended Form of Claimant Trust Agreement # 3 Exhibit N—Redline of Form of Claimant Trust Agreement # 4 Exhibit O—Amended Form of Litigation Trust Agreement # 5 Exhibit P—Redline of Form of Litigation Trust Agreement) (Annable, Zachery)
01/05/2021	1657 Notice of Appearance and Request for Notice by Daniel P. Winikka filed by Interested Parties Brad Borud, Jack Yang. (Winikka, Daniel)
01/05/2021	1658 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: ACA Compliance Group (Amount \$26,324.25) To Argo Partners. Filed by Creditor Argo Partners. (Gold, Matthew)
01/05/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (26.00). Receipt number 28389049, amount \$ 26.00 (re: Doc# 1658). (U.S. Treasury)
01/05/2021	1659 Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) 1545 Application for compensation (<i>Hayward & Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020</i>) for Hayward & Associates PLLC, Debtor's Att). (Annable, Zachery)
01/05/2021	1660 Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 6, 2021 at 2:30 p.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/05/2021	1661 Objection to confirmation of plan (RE: related document(s) 1472 Chapter 11 plan) filed by Interested Party James Dondero. (Clarke, James)
01/05/2021	1662 Objection to confirmation of plan (RE: related document(s) 1472 Chapter 11 plan) filed by City of Richardson, Allen ISD, City of Allen, Dallas County, Kaufman County. (Spindler, Laurie)
01/05/2021	1663 Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) 1544 Application for compensation (<i>First Interim Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52.). (Annable, Zachery)
01/05/2021	1664 Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 1547 Application for compensation <i>Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30,</i>). (Annable, Zachery)
01/05/2021	1665 Certificate of No Objection filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (RE: related document(s) 1552 Application for compensation (<i>Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for</i>). (Annable, Zachery)
01/05/2021	1666 Objection to confirmation of plan (RE: related document(s) 1472 Chapter 11 plan) filed by Interested Parties Brad Borud, Jack Yang. (Winikka, Daniel)
01/05/2021	1667 Objection to confirmation of plan <i>with Certificate of Service</i> (RE: related document(s) 1472 Chapter 11 plan) filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)

01/05/2021	<u>1668</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor United States (IRS). (Adams, David)
01/05/2021	<u>1669</u> WITHDRAWN per # <u>1845</u> . Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Smith, Frances) MODIFIED on 1/27/2021 (Ecker, C.).
01/05/2021	<u>1670</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Attachments: # <u>1</u> Exhibit A) (Rukavina, Davor)
01/05/2021	<u>1671</u> Trustee's Objection to <i>Fifth Amended Plan</i> (RE: related document(s) <u>1472</u> Chapter 11 plan) (Lambert, Lisa)
01/05/2021	<u>1672</u> Certificate of service re: Senior Employees' Objection to Debtor's Fifth Amended Plan of Reorganization filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1669</u> Objection to confirmation of plan). (Smith, Frances)
01/05/2021	<u>1673</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Drawhorn, Lauren)
01/05/2021	<u>1674</u> Joinder by <i>Kauffman, Travers and Deadman to Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization</i> filed by Paul Kauffman, Todd Travers, Davis Deadman (RE: related document(s) <u>1472</u> Chapter 11 plan, <u>1666</u> Objection to confirmation of plan). (Kathman, Jason)
01/05/2021	<u>1675</u> Joinder by [<i>Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. [Dkt. No. 1670] and Supplemental Objection to Plan Confirmation</i>] filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>1670</u> Objection to confirmation of plan). (Kane, John)
01/05/2021	<u>1676</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties NexBank Title Inc., NexBank Securities Inc., NexBank Capital Inc., NexBank. (Drawhorn, Lauren)
01/05/2021	<u>1677</u> Joinder by <i>NexPoint RE Entities to Objection to Confirmation of Fifth Amended Plan of Reorganization</i> filed by Interested Parties NexPoint Hospitality Trust, NexPoint Multifamily Capital Trust, Inc., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Finance Inc., NexPoint Real Estate Partners, LLC, NexPoint Residential Trust, Inc., Nexpoint Real Estate Capital, LLC, Vinebrook Homes, Trust, Inc. (RE: related document(s) <u>1670</u> Objection to confirmation of plan). (Drawhorn, Lauren)
01/05/2021	<u>1678</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Patrick Daugherty. (Kathman, Jason)
01/05/2021	

	<u>1679</u> Joinder by <i>Kauffman, Travers and Deadman to Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization (Amended)</i> filed by Davis Deadman, Paul Kauffman, Todd Travers (RE: related document(s) <u>1472</u> Chapter 11 plan, <u>1666</u> Objection to confirmation of plan). (Kathman, Jason)
01/05/2021	<u>1680</u> Motion to appear pro hac vice for Debra Dandenau. Fee Amount \$100 Filed by Creditor Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent (Soderlund, Eric)
01/05/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28390902, amount \$ 100.00 (re: Doc# <u>1680</u>). (U.S. Treasury)
01/06/2021	<u>1681</u> Motion to appear pro hac vice for Douglas S. Draper. Fee Amount \$100 Filed by Get Good Trust, The Dugaboy Investment Trust (Draper, Douglas)
01/06/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28393061, amount \$ 100.00 (re: Doc# <u>1681</u>). (U.S. Treasury)
01/06/2021	<u>1682</u> Motion to appear pro hac vice for Leslie A. Collins. Fee Amount \$100 Filed by Get Good Trust, The Dugaboy Investment Trust (Draper, Douglas)
01/06/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28393082, amount \$ 100.00 (re: Doc# <u>1682</u>). (U.S. Treasury)
01/06/2021	<u>1683</u> Motion to appear pro hac vice for Greta M. Brouphy. Fee Amount \$100 Filed by Get Good Trust, The Dugaboy Investment Trust (Brouphy, Greta)
01/06/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28393123, amount \$ 100.00 (re: Doc# <u>1683</u>). (U.S. Treasury)
01/06/2021	<u>1684</u> Order granting third interim fee application for compensation (related document # <u>1296</u>) granting for Official Committee of Unsecured Creditors, fees awarded: \$1865520.45, expenses awarded: \$18678.47 Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1685</u> Order granting third interim application for compensation (related document # <u>1244</u>) granting for FTI Consulting, Inc., fees awarded: \$886615.45, expenses awarded: \$1833.10 Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1686</u> Order granting first interim application for compensation (related document # <u>1544</u>) granting for Hunton Andrews Kurth LLP, fees awarded: \$206933.85, expenses awarded: \$546.52 Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1687</u> Order granting third interim application for compensation (related document # <u>1547</u>) granting for Jeffrey Nathan Pomerantz, fees awarded: \$3380111.5, expenses awarded: \$31940.33 Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1688</u> Second Agreed Order regarding deposit of funds into the registry of the court (RE: related document(s) <u>1365</u> Agreed Supplemental Order re: <u>474</u> Motion for authority to apply and disburse funds filed by Debtor Highland Capital Management, L.P., <u>1365</u> Order (generic)). Entered on 1/6/2021 (Okafor, M.)
01/06/2021	<u>1689</u> Motion to appear pro hac vice for Warren Horn. Fee Amount \$100 Filed by Get Good Trust, The Dugaboy Investment Trust (Horn, Warren)

01/06/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (100.00). Receipt number 28393995, amount \$ 100.00 (re: Doc# <u>1689</u>). (U.S. Treasury)
01/06/2021	<u>1690</u> Order granting motion to appear pro hac vice adding Debra A. Dandeneau for FTI Consulting, Inc. and Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent (related document # <u>1680</u>) Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1691</u> Order granting third and final application for compensation (related document <u>1483</u>) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$617654.60, expenses awarded: \$11433.73 Entered on 1/6/2021. (Okafor, M.) Modified to correct text on 1/29/2021 (Ecker, C.).
01/06/2021	<u>1692</u> Adversary case 21-03000. Complaint by Highland Capital Management, L.P. against Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, NexPoint Capital, Inc., CLO Holdco, Ltd.. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Proceeding Cover Sheet). Nature(s) of suit: 91 (Declaratory judgment). 72 (Injunctive relief - other). 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Annable, Zachery)
01/06/2021	<u>1693</u> Subpoena on Highland Capital Management, L.P. filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 - Subpoena with Document Requests) (Assink, Bryan)
01/06/2021	<u>1694</u> Subpoena on Kurtzman Carson Consultants LLC filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 - Subpoena with Document Requests) (Assink, Bryan)
01/06/2021	<u>1695</u> Certificate of service re: 1) <i>WebEx Meeting Invitation to participate electronically in the hearing on Wednesday, December 16, 2020 at 1:30 p.m. Central Time before the Honorable Stacey G. Jernigan</i> ; 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing</i> ; and 3) <i>Foley & Lardner LLP's Witness and Exhibit List for Final Fee Application</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1650</u> Witness and Exhibit List filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP). (Kass, Albert)
01/06/2021	<u>1696</u> Certificate of service re: 1) <i>Fourth Interim Fee Application of FTI Consulting, Inc. as Financial Advisor for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from September 1, 2020 Through and Including November 30, 2020</i> ; and 2) <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1655</u> Application for compensation <i>Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, Fee: \$710,280.45, Expenses: \$1,479.47. Filed by Attorney Juliana Hoffman Objections due by 1/25/2021. filed by Financial Advisor FTI Consulting, Inc., <u>1656</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit L—Amended Schedule of Retained Causes of Action # 2 Exhibit M—Amended Form of Claimant Trust Agreement # 3 Exhibit N—Redline of Form of Claimant Trust Agreement # 4 Exhibit O—Amended Form of Litigation Trust Agreement # 5 Exhibit P—Redline of Form of Litigation Trust Agreement) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

01/06/2021	<u>1697</u> Objection to (related document(s): <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
01/07/2021	<u>1698</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>816</u> Order on motion to extend/shorten time)). (Annable, Zachery)
01/07/2021	<u>1699</u> Certificate of service re: Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1648</u> Notice (generic)). (Annable, Zachery)
01/07/2021	<u>1700</u> Certificate of service re: Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1648</u> Notice (generic)). (Annable, Zachery)
01/07/2021	<u>1701</u> Order granting motion to appear pro hac vice adding Douglas S. Draper for Get Good Trust and The Dugaboy Investment Trust (related document <u>1681</u>) Entered on 1/7/2021. (Okafor, M.) Modified to add party on 1/7/2021 (Okafor, M.).
01/07/2021	<u>1702</u> Order granting motion to appear pro hac vice adding Leslie A. Collins for Get Good Trust and The Dugaboy Investment Trust (related document # <u>1682</u>) Entered on 1/7/2021. (Okafor, M.)
01/07/2021	<u>1703</u> Order granting motion to appear pro hac vice adding Greta M. Brouphy for Get Good Trust and The Dugaboy Investment Trust (related document # <u>1683</u>) Entered on 1/7/2021. (Okafor, M.)
01/07/2021	<u>1704</u> Order granting motion to appear pro hac vice adding Warren Horn for Get Good Trust and The Dugaboy Investment Trust (related document # <u>1689</u>) Entered on 1/7/2021. (Okafor, M.)
01/07/2021	<u>1705</u> Notice to take deposition of Michael Pugatch filed by Interested Party James Dondero. (Assink, Bryan)
01/08/2021	<u>1706</u> Objection to (related document(s): <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. filed by Debtor Highland Capital Management, L.P.) <i>Objection to Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
01/08/2021	<u>1707</u> Objection to (related document(s): <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. filed by Debtor Highland Capital Management, L.P.) filed by Creditor CLO Holdco, Ltd.. (Kane, John)
01/08/2021	<u>1708</u> SEALED document regarding: Exhibit A to CLO Holdco, Ltd.'s Objection to Harbourvest Settlement [Docket No. 1707] Members Agreement Relating to the Company dated November 15, 2017 by and between each of the members of HCLOF,

	including Harbourvest, the Debtor, and CLO Holdco – Confidential [Confidential Subject to Agreed Protective Order See Docket No. 382] per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/08/2021	<u>1709</u> Notice (<i>Notice of Filing of Certificate of Service Regarding Letter Dated January 7, 2021 to Highland Capital Management Services, Inc. from James P. Seery, Jr. Regarding Demand on Promissory Note</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/08/2021	<u>1710</u> Debtor-in-possession monthly operating report for filing period November 1, 2020 to November 30, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/08/2021	<u>1711</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to November 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
01/08/2021	<u>1712</u> Certificate of service re: <i>Notice of Agenda of Matters Scheduled for Hearing on January 6, 2021 at 2:30 p.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1660</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 6, 2021 at 2:30 p.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/08/2021	<u>1713</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1690</u> Order granting motion to appear pro hac vice adding Debra A. Dandeneau for FTI Consulting, Inc. and Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent (related document <u>1680</u>) Entered on 1/6/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 01/08/2021. (Admin.)
01/09/2021	<u>1714</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1625</u> , (Annable, Zachery)
01/11/2021	<u>1715</u> Order granting application for compensation (related document # <u>1552</u>) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$709256.22, expenses awarded: \$0.0 Entered on 1/11/2021. (Ecker, C.)
01/11/2021	<u>1716</u> Witness and Exhibit List filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Kane, John)
01/11/2021	<u>1717</u> SEALED document regarding: Exhibit 4, Members Agreement Relating to the Company dated November 15, 2017 by and between each of the members of HCLOF, including Harbourvest, the Debtor, and CLO Holdco [Confidential Subject to Agreed

	Protective Order] per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/11/2021	<u>1718</u> Amended Notice of hearing (<i>Amended Notice of (I) Hearing to Confirm Plan and (II) Related Important Dates</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan).). Confirmation hearing to be held on 1/26/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
01/11/2021	<u>1719</u> Notice (<i>Second Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
01/11/2021	<u>1720</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , (Annable, Zachery)
01/11/2021	<u>1721</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Attachments: # <u>1</u> Dondero Ex. A – POCs # <u>2</u> Dondero Ex. B # <u>3</u> Dondero Ex. C # <u>4</u> Dondero Ex. D # <u>5</u> Dondero Ex. E # <u>6</u> Dondero Ex. F # <u>7</u> Dondero Ex. G # <u>8</u> Ex. H – M) (Assink, Bryan)
01/11/2021	<u>1722</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Annable, Zachery)
01/11/2021	<u>1723</u> Witness and Exhibit List filed by Creditor HarbourVest et al (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Driver, Vickie)
01/11/2021	<u>1724</u> Certificate of service re: <i>Documents Served on January 6, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1684</u> Order granting third interim fee application for compensation (related document <u>1296</u>) granting for Official Committee of Unsecured Creditors, fees awarded: \$1865520.45, expenses awarded: \$18678.47 Entered on 1/6/2021. (Okafor, M.), <u>1685</u> Order granting third interim application for compensation (related document <u>1244</u>) granting for FTI Consulting, Inc., fees awarded: \$886615.45, expenses awarded: \$1833.10 Entered on 1/6/2021. (Okafor, M.), <u>1686</u> Order granting first interim application for compensation (related document <u>1544</u>) granting for Hunton Andrews Kurth LLP, fees awarded: \$206933.85, expenses awarded: \$546.52 Entered on 1/6/2021. (Okafor, M.), <u>1687</u> Order granting third interim application for compensation (related document <u>1547</u>) granting for Jeffrey Nathan Pomerantz, fees awarded: \$3380111.5, expenses awarded: \$31940.33 Entered on 1/6/2021. (Okafor, M.),

	<p><u>1688</u> Second Agreed Order regarding deposit of funds into the registry of the court (RE: related document(s) <u>1365</u> Agreed Supplemental Order re: <u>474</u> Motion for authority to apply and disburse funds filed by Debtor Highland Capital Management, L.P., <u>1365</u> Order (generic)). Entered on 1/6/2021 (Okafor, M.), <u>1691</u> Order granting first and final application for compensation (related document <u>1483</u>) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$617654.60, expenses awarded: \$11433.73 Entered on 1/6/2021. (Okafor, M.)). (Kass, Albert)</p>
01/12/2021	<p><u>1725</u> Order further extending period within which the Debtor may remove actions <u>1583</u> Motion to extend time. (Re: related document(s) <u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>816</u> Order on motion to extend/shorten time)) Entered on 1/12/2021. (Ecker, C.)</p>
01/12/2021	<p><u>1726</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1722</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u> Exhibit M # <u>14</u> Exhibit N # <u>15</u> Exhibit O # <u>16</u> Exhibit P # <u>17</u> Exhibit Q # <u>18</u> Exhibit R # <u>19</u> Exhibit S # <u>20</u> Exhibit T # <u>21</u> Exhibit U # <u>22</u> Exhibit V # <u>23</u> Exhibit W # <u>24</u> Exhibit X # <u>25</u> Exhibit DD) (Annable, Zachery)</p>
01/13/2021	<p><u>1727</u> Certificate of service re: Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to November 30, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1711</u> Notice (generic)). (Annable, Zachery)</p>
01/13/2021	<p><u>1728</u> Order granting application for compensation (related document # <u>1545</u>) granting for Hayward & Associates PLLC, fees awarded: \$82325.00, expenses awarded: \$1972.63 Entered on 1/13/2021. (Ecker, C.)</p>
01/13/2021	<p><u>1729</u> Certificate of service re: Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the Fifth Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of the Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1476</u> Order approving disclosure statement). (Annable, Zachery)</p>
01/13/2021	<p><u>1730</u> Certificate of service re: Order Further Extending Period Within Which the Debtor May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time). (Annable, Zachery)</p>
01/13/2021	<p><u>1731</u> Omnibus Reply to (related document(s): <u>1697</u> Objection filed by Interested Party James Dondero, <u>1706</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1707</u> Objection filed by Creditor CLO Holdco, Ltd.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/13/2021	<p><u>1732</u> Amended Witness and Exhibit List (<i>Debtor's Second Amended Witness and Exhibit List with Respect to Hearing to Be Held on January 14, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1722</u> List (witness/exhibit/generic), <u>1726</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit EE) (Annable, Zachery)</p>
01/13/2021	<p><u>1733</u> Expedited Motion to file document under seal./<i>Expedited Motion for Leave to File Documents Under Seal in Connection with the HarbourVest Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith</i> Filed by Creditor HarbourVest et al (Attachments: # <u>1</u> Exhibit A – Proposed Order) (Driver, Vickie)</p>

01/13/2021	<u>1734</u> Omnibus Reply to (related document(s): <u>1697</u> Objection filed by Interested Party James Dondero, <u>1706</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1707</u> Objection filed by Creditor CLO Holdco, Ltd.) / <i>HarbourVest Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith</i> filed by Creditor HarbourVest et al. (Driver, Vickie)
01/13/2021	<u>1735</u> Support/supplemental document / <i>Appendix to HarbourVest Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith</i> filed by Creditor HarbourVest et al (RE: related document(s) <u>1734</u> Reply). (Driver, Vickie)
01/13/2021	<u>1736</u> Emergency Motion to file document under seal.(<i>Debtor's Emergency Motion for Entry of an Order Authorizing the Filing under Seal of Exhibits to Debtor's Omnibus Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154), and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
01/14/2021	<u>1737</u> Order granting motion to seal exhibits (related document # <u>1736</u>) Entered on 1/14/2021. (Ecker, C.)
01/14/2021	<u>1738</u> SEALED document regarding: Exhibit A—Members Agreement per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1737</u> Order on motion to seal). (Annable, Zachery)
01/14/2021	<u>1739</u> SEALED document regarding: Exhibit B—Articles of Incorporation per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1737</u> Order on motion to seal). (Annable, Zachery)
01/14/2021	<u>1740</u> SEALED document regarding: Exhibit C—Offering Memorandum per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1737</u> Order on motion to seal). (Annable, Zachery)
01/14/2021	<u>1741</u> Notice (<i>Notice of Stipulation Resolving Proof of Claim No. 166 Filed by Stinson Leonard Street LLP</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/14/2021	<u>1742</u> Exhibit List (<i>Supplemental Exhibit List</i>) filed by Interested Party James Dondero (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Attachments: # <u>1</u> Dondero Ex. N) (Assink, Bryan)
01/14/2021	<u>1743</u> Declaration re: <i>Supplemental Declaration of Conor P. Tully In Support of the Application Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor to the Official Committee of Unsecured Creditors</i> filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>336</u> Order on application to employ). (Hoffman, Juliana)
01/14/2021	<u>1744</u> Declaration re: (<i>Supplemental Declaration of Marc D. Katz</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>268</u> Declaration). (Annable, Zachery)
01/14/2021	<u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i> Filed by Get Good Trust, The Dugaboy Investment Trust (Attachments: # <u>1</u> Proposed Order) (Draper, Douglas)

01/14/2021	<u>1752</u> INCORRECT Entry: Original entry at # [1745 is correct} Motion to Appoint Examiner pursuant to 11 U.S.C. § 1104(c) by Get Good Trust , The Dugaboy Investment Trust . (Ecker, C.) Modified on 1/15/2021 (Ecker, C.). (Entered: 01/15/2021)
01/14/2021	<u>1753</u> Hearing held on 1/14/2021. (RE: related document(s) <u>1590</u> Motion to pay Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan) filed by Debtor Highland Capital Management, L.P. (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Nonevidentiary hearing. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 01/15/2021)
01/14/2021	<u>1754</u> Hearing held on 1/14/2021. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P., filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Evidentiary hearing. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 01/15/2021)
01/14/2021	<u>1755</u> Hearing held on 1/14/2021. (RE: related document(s) <u>1207</u> Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan filed by Creditor HarbourVest et al (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Evidentiary hearing. Motion resolved by approval of compromise and settlement. Counsel to upload order.) (Edmond, Michael) (Entered: 01/15/2021)
01/14/2021	<u>1782</u> Court admitted exhibits date of hearing January 14, 2021 (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P., filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S/PLAINTIFF EXHIBIT'S #A THROUGH #EE BY JAMES MORRIS AND EXHIBIT'S #34 & #36 BY ERICA WEISGERBER AND DEFENDANT'S DONDERO EXHIBIT #N (ONLY PORTIONS OF EXHIBIT) BY J. WILSON) (Edmond, Michael) (Entered: 01/20/2021)
01/15/2021	<u>1746</u> Order granting motion to pay (related document # <u>1590</u>) Entered on 1/15/2021. (Ecker, C.)
01/15/2021	<u>1747</u> Order (RE: related document(s) <u>1741</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 1/15/2021 (Ecker, C.)
01/15/2021	<u>1748</u> Motion for expedited hearing(related documents <u>1745</u> Motion to appoint trustee) Filed by Get Good Trust, The Dugaboy Investment Trust (Attachments: # <u>1</u> Proposed Order) (Draper, Douglas)
01/15/2021	<u>1749</u> Notice (<i>Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P.

	(RE: related document(s) 1472 Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
01/15/2021	1750 Request for transcript regarding a hearing held on 1/14/2021. The requested turn-around time is hourly (Green, Shanette)
01/15/2021	1751 Supplemental Certificate of service re: filed by Creditors The Dugaboy Investment Trust, Get Good Trust (RE: related document(s) 1745 Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i> , 1748 Motion for expedited hearing (related documents 1745 Motion to appoint trustee). (Draper, Douglas) Modified on 1/15/2021 (Rielly, Bill).
01/15/2021	1756 Joinder by filed by Interested Party James Dondero (RE: related document(s) 1745 Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i>). (Assink, Bryan)
01/15/2021	1757 Notice of Increase in Hourly Rates for Pachulski Stang Ziehl & Jones LLP Effective as of January 1, 2021 filed by Debtor Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
01/15/2021	1758 Certificate No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) 1632 Application for compensation <i>Sidley Austin LLP's Thirteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/1/2020 to 11/30/2020, Fee: �). (Hoffman, Juliana)
01/15/2021	1759 Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) 1633 Application for compensation <i>Thirteenth Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/1/2020 to 11/30/2020, Fee: \$201,148.56, Expenses: \$408.64.). (Hoffman, Juliana)
01/15/2021	1760 Certificate of service re: <i>(Supplemental) Solicitation Materials Served on January 11, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 1630 Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 1472 Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 944 Chapter 11 plan, 1079 Chapter 11 plan, 1287 Chapter 11 plan, 1383 Chapter 11 plan, 1450 Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., 1473 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 945 Disclosure statement, 1080 Disclosure statement, 1289 Disclosure statement, 1384 Disclosure statement, 1453 Disclosure statement). filed by Debtor Highland Capital Management, L.P., 1476 Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) 1472 Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and 1473 Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
01/15/2021	1761 Certificate of service re: <i>Documents Served on or Before January 12, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 1714 Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 1625 Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on

	<p>1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1625</u>, filed by Debtor Highland Capital Management, L.P., <u>1715</u> Order granting application for compensation (related document <u>1552</u>) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$709256.22, expenses awarded: \$0.0 Entered on 1/11/2021. (Ecker, C.), <u>1718</u> Amended Notice of hearing (<i>Amended Notice of (I) Hearing to Confirm Plan and (II) Related Important Dates</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan).). Confirmation hearing to be held on 1/26/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>1719</u> Notice (<i>Second Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). filed by Debtor Highland Capital Management, L.P., <u>1720</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u>, filed by Debtor Highland Capital Management, L.P., <u>1722</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/15/2021	<p><u>1762</u> Certificate of service re: <i>Documents Served on January 12, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1725</u> Order further extending period within which the Debtor may remove actions <u>1583</u> Motion to extend time. (Re: related document(s) <u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>816</u> Order on motion to extend/shorten time)) Entered on 1/12/2021. (Ecker, C.), <u>1726</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1722</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Exhibit J # 11 Exhibit K # 12 Exhibit L # 13 Exhibit M # 14 Exhibit N # 15 Exhibit O # 16 Exhibit P # 17 Exhibit Q # 18 Exhibit R # 19 Exhibit S # 20 Exhibit T # 21 Exhibit U # 22 Exhibit V # 23 Exhibit W # 24 Exhibit X # 25 Exhibit DD) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/15/2021	<p><u>1763</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>1728</u> Order granting application for compensation (related document <u>1545</u>) granting for Hayward & Associates PLLC, fees awarded: \$82325.00, expenses awarded: \$1972.63 Entered on 1/13/2021. (Ecker, C.)) No. of Notices: 1. Notice Date 01/15/2021. (Admin.)</p>
01/16/2021	<p><u>1764</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/17/2021	<p><u>1765</u> Transcript regarding Hearing Held 01/14/2021 (173 pages) RE: Motion to Prepay Loan; Motion to Compromise Controversy; Motion to Allow Claims. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 04/19/2021.</p>

	<p>Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1753 Hearing held on 1/14/2021. (RE: related document(s) <u>1590</u> Motion to pay Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan) filed by Debtor Highland Capital Management, L.P. (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Nonevidentiary hearing. Motion granted. Counsel to upload order.), 1754 Hearing held on 1/14/2021. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P., filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Evidentiary hearing. Motion granted. Counsel to upload order.), 1755 Hearing held on 1/14/2021. (RE: related document(s) <u>1207</u> Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan filed by Creditor HarbourVest et al (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Evidentiary hearing. Motion resolved by approval of compromise and settlement. Counsel to upload order.)). Transcript to be made available to the public on 04/19/2021. (Rehling, Kathy)</p>
01/17/2021	<p><u>1766</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1747</u> Order (RE: related document(s) <u>1741</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 1/15/2021 (Ecker, C.)) No. of Notices: 1. Notice Date 01/17/2021. (Admin.)</p>
01/18/2021	<p><u>1767</u> Verified statement pursuant to Rule 2019 filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Smith, Frances)</p>
01/18/2021	<p><u>1768</u> Certificate of service re: Verified Statement Pursuant to Federal Rule of Bankruptcy Procedure 2019 of (I) Frances A. Smith and Disclosures of Ross & Smith, PC; and (II) Michelle Hartmann and Disclosures of Baker & McKenzie LLP filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1767</u> Verified statement pursuant to Rule 2019). (Smith, Frances)</p>
01/18/2021	<p><u>1769</u> Declaration re: (<i>Report of Mediators</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>912</u> Order (generic)). (Annable, Zachery)</p>
01/19/2021	<p><u>1770</u> Order Granting Expedited Motion for Leave to File Documents Under Seal in Connection with the HarbourVest Reply in Support of Debtors Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith (related document # <u>1733</u>) Entered on 1/19/2021. (Okafor, M.)</p>
01/19/2021	<p><u>1771</u> Application for compensation <i>Fifteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2020 through December 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 12/31/2020, Fee: \$1,046,024.00, Expenses: \$4,130.90. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 2/9/2021. (Pomerantz, Jeffrey)</p>
01/19/2021	<p><u>1772</u> Chapter 11 ballot summary filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>

01/19/2021	<u>1773</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/19/2021	<u>1774</u> Notice to take deposition of Highland Capital Management, L.P. filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Hogewood, A.)
01/19/2021	<u>1775</u> Certificate of service re: <i>1) Order Granting Debtors Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay; 2) Order Approving Stipulation Resolving Proof of Claim No. 166 Filed by Stinson Leonard Street LLP; and 3) Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1746</u> Order granting motion to pay (related document <u>1590</u>) Entered on 1/15/2021. (Ecker, C.), <u>1747</u> Order (RE: related document(s) <u>1741</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 1/15/2021 (Ecker, C.), <u>1749</u> Notice (<i>Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/19/2021	<u>1776</u> Notice to take deposition of Highland Capital Management LP filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
01/19/2021	<u>1777</u> Motion for leave (<i>Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B-1 # <u>3</u> Exhibit B-2 # <u>4</u> Exhibit C) (Annable, Zachery)
01/19/2021	<u>1778</u> Motion for expedited hearing(related documents <u>1777</u> Motion for leave) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
01/19/2021	<u>1779</u> Certificate of service re: <i>Documents Served on January 13, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1728</u> Order granting application for compensation (related document <u>1545</u>) granting for Hayward & Associates PLLC, fees awarded: \$82325.00, expenses awarded: \$1972.63 Entered on 1/13/2021. (Ecker, C.), <u>1731</u> Omnibus Reply to (related document(s): <u>1697</u> Objection filed by Interested Party James Dondero, <u>1706</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1707</u> Objection filed by Creditor CLO Holdco, Ltd.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1732</u> Amended Witness and Exhibit List (<i>Debtor's Second Amended Witness and Exhibit List with Respect to Hearing to Be Held on January 14, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1722</u> List (witness/exhibit/generic), <u>1726</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit EE) filed by Debtor Highland Capital Management, L.P., <u>1736</u> Emergency Motion to file document under seal.(<i>Debtor's Emergency Motion for Entry of an Order Authorizing the Filing under Seal of Exhibits to Debtor's Omnibus Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150,</i>

	<i>153, 154), and Authorizing Actions Consistent Therewith)</i> Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/20/2021	<u>1780</u> Notice of District Court Order Accepting Documents Designated for Inclusion in Record on Appeal Under Seal filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
01/20/2021	<u>1781</u> Certificate of service re: Notice of Rule 30(b)(6) Amended Certificate of Service filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1776</u> Notice to take deposition). (Draper, Douglas)
01/20/2021	<u>1783</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1777</u> Motion for leave (<i>Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B-1 # 3 Exhibit B-2 # 4 Exhibit C)). Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , (Annable, Zachery)
01/20/2021	<u>1784</u> WITHDRAWN PER # <u>1876</u> . Objection to (related document(s): <u>1719</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan) Modified on 2/2/2021 (Ecker, C.).
01/20/2021	<u>1785</u> Order granting motion for expedited hearing (Related Doc# <u>1778</u>)(document set for hearing: <u>1777</u> Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief)) Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , Entered on 1/20/2021. (Rielly, Bill)
01/20/2021	<u>1786</u> Certificate of service re: <i>Documents Served on January 14, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1737</u> Order granting motion to seal exhibits (related document <u>1736</u>) Entered on 1/14/2021. (Ecker, C.), <u>1741</u> Notice (<i>Notice of Stipulation Resolving Proof of Claim No. 166 Filed by Stinson Leonard Street LLP</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1743</u> Declaration re: <i>Supplemental Declaration of Conor P. Tully In Support of the Application Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor to the Official Committee of Unsecured Creditors</i> filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>336</u> Order on application to employ). filed by Financial Advisor FTI Consulting, Inc., <u>1744</u> Declaration re: (<i>Supplemental Declaration of Marc D. Katz</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>268</u> Declaration). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/20/2021	<u>1787</u> Certificate of service re: <i>Documents Served on or Before January 19, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1764</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1769</u> Declaration re: (<i>Report of Mediators</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>912</u> Order (generic)). filed by Debtor Highland Capital Management, L.P., <u>1771</u> Application for compensation <i>Fifteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2020 through December 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 12/31/2020, Fee: \$1,046,024.00, Expenses: \$4,130.90. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 2/9/2021. filed by Debtor Highland Capital Management, L.P., <u>1772</u> Chapter 11 ballot summary filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1773</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1777</u> Motion for leave (<i>Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i>) Filed by Debtor Highland Capital

	Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B-1 # 3 Exhibit B-2 # 4 Exhibit C) filed by Debtor Highland Capital Management, L.P., <u>1778</u> Motion for expedited hearing(related documents <u>1777</u> Motion for leave) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/21/2021	<u>1788</u> Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # <u>1625</u>) Entered on 1/21/2021. (Okafor, M.)
01/21/2021	<u>1789</u> Notice (<i>Notice of Service of Discovery on Highland Capital Management, L.P.</i>) filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. A – Document Requests) (Assink, Bryan)
01/21/2021	<u>1790</u> Subpoena on Jean Paul Sevilla filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Subpoena) (Assink, Bryan)
01/21/2021	<u>1791</u> Notice (<i>Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1648</u> Notice (<i>Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation))., <u>1719</u> Notice (<i>Second Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation))., <u>1749</u> Notice (<i>Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)).). (Annable, Zachery)
01/22/2021	<u>1792</u> Witness and Exhibit List <i>United States' (IRS) Witness & Exhibit List</i> filed by Creditor United States (IRS) (RE: related document(s) <u>1668</u> Objection to confirmation of plan). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6) (Adams, David)
01/22/2021	<u>1793</u> Witness and Exhibit List <i>for Confirmation Hearing</i> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint

	Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1670</u> Objection to confirmation of plan). (Hogewood, A.)
01/22/2021	<u>1794</u> Witness and Exhibit List <i>with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit 5 # <u>2</u> Exhibit 6 # <u>3</u> Exhibit 6-1) (Draper, Douglas)
01/22/2021	<u>1795</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Dondero Ex. 1 # <u>2</u> Dondero Ex. 2 # <u>3</u> Dondero Ex. 3 # <u>4</u> Dondero Ex. 4 # <u>5</u> Dondero Ex. 5 # <u>6</u> Dondero Ex. 6 # <u>7</u> Dondero Ex. 7 # <u>8</u> Dondero Ex. 8 # <u>9</u> Dondero Ex. 9 # <u>10</u> Dondero Ex. 10 # <u>11</u> Dondero Ex. 11 # <u>12</u> Dondero Ex. 12 # <u>13</u> Dondero Ex. 13 # <u>14</u> Dondero Ex. 14 # <u>15</u> Dondero Ex. 15 # <u>16</u> Dondero Ex. 16 # <u>17</u> Dondero Ex. 17) (Assink, Bryan)
01/22/2021	<u>1796</u> Witness and Exhibit List <i>for Hearing Scheduled for January 26, 2021 at 9:30 a.m.</i> filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit SE1 # <u>2</u> Exhibit SE2 # <u>3</u> Exhibit SE # <u>4</u> Exhibit SE4 # <u>5</u> Exhibit SE5 # <u>6</u> Exhibit SE6 # <u>7</u> Exhibit SE7 # <u>8</u> Exhibit SE8 # <u>9</u> Exhibit SE9 # <u>10</u> Exhibit SE10 # <u>11</u> Exhibit SE11 # <u>12</u> Exhibit SE12 # <u>13</u> Exhibit SE13 # <u>14</u> Exhibit SE14 # <u>15</u> Exhibit SE15 # <u>16</u> Exhibit SE16 # <u>17</u> Exhibit SE17 # <u>18</u> Exhibit SE18 # <u>19</u> Exhibit SE19 # <u>20</u> Exhibit SE20 # <u>21</u> Exhibit SE21 # <u>22</u> Exhibit SE22 # <u>23</u> Exhibit SE23 # <u>24</u> Exhibit SE24 # <u>25</u> Exhibit SE25 # <u>26</u> Exhibit SE26 # <u>27</u> Exhibit SE27 # <u>28</u> Exhibit SE28 # <u>29</u> Exhibit SE29 # <u>30</u> Exhibit SE30 # <u>31</u> Exhibit SE31 # <u>32</u> Exhibit SE33 # <u>33</u> Exhibit SE34 # <u>34</u> Exhibit SE35 # <u>35</u> Exhibit SE36 # <u>36</u> Exhibit SE37 # <u>37</u> Exhibit SE38 # <u>38</u> Exhibit SE39 # <u>39</u> Exhibit SE40) (Smith, Frances)
01/22/2021	<u>1797</u> Witness and Exhibit List filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Kane, John)
01/22/2021	<u>1798</u> Certificate of service re: Witness & Exhibit List for Hearing Scheduled for January, 26, 2021 at 9:30 a.m. filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1796</u> List (witness/exhibit/generic)). (Smith, Frances)
01/22/2021	<u>1799</u> Witness and Exhibit List <i>for Hearing Scheduled for January 26, 2021 at 9:30 a.m.</i> filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit SE33) (Smith, Frances)
01/22/2021	<u>1800</u> Exhibit and Witness List for Confirmation Hearing filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1670</u> Objection to confirmation of plan). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u> Exhibit M # <u>14</u> Exhibit N # <u>15</u> Exhibit O # <u>16</u> Exhibit P # <u>17</u> Exhibit Q # <u>18</u> Exhibit R # <u>19</u> Exhibit S # <u>20</u> Exhibit U # <u>21</u> Exhibit U # <u>22</u> Exhibit V # <u>23</u> Exhibit W # <u>24</u> Exhibit X # <u>25</u> Exhibit Y # <u>26</u> Exhibit Z # <u>27</u> Exhibit AA # <u>28</u> Exhibit BB # <u>29</u> Exhibit CC # <u>30</u> Exhibit DD # <u>31</u> Exhibit EE # <u>32</u> Exhibit FF # <u>33</u> Exhibit GG # <u>34</u> Exhibit HH # <u>35</u> Exhibit II # <u>36</u> Exhibit JJ # <u>37</u> Exhibit KK # <u>38</u> Exhibit LL # <u>39</u> Exhibit MM # <u>40</u> Exhibit NN # <u>41</u> Exhibit OO # <u>42</u> Exhibit PP # <u>43</u> Exhibit QQ # <u>44</u> Exhibit RR # <u>45</u> Exhibit SS # <u>46</u> Exhibit TT # <u>47</u> Exhibit UU # <u>48</u> Exhibit VV # <u>49</u> Exhibit WW # <u>50</u> Exhibit XX # <u>51</u> Exhibit YY # <u>52</u> Exhibit ZZ # <u>53</u> Exhibit AAA # <u>54</u> Exhibit BBB # <u>55</u> Exhibit CCC # <u>56</u> Exhibit DDD # <u>57</u> Exhibit EEE # <u>58</u> Exhibit FFF # <u>59</u> Exhibit GGG # <u>60</u> Exhibit HHH # <u>61</u> Exhibit III # <u>62</u> Exhibit JJJ # <u>63</u> Exhibit KKK # <u>64</u> Exhibit LLL # <u>65</u> Exhibit MMM # <u>66</u> Exhibit NNN # <u>67</u> Exhibit

	OOO # <u>68</u> Exhibit PPP # <u>69</u> Exhibit QQQ # <u>70</u> Exhibit RRR # <u>71</u> Exhibit SSS # <u>72</u> Exhibit TTT # <u>73</u> Exhibit UUU # <u>74</u> Exhibit VVV # <u>75</u> Exhibit WWW # <u>76</u> Exhibit ZZZ) (Hogewood, A.) MODIFIED on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1801</u> Adversary case 21-03003. Complaint by Highland Capital Management, L.P. against James Dondero. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Adversary Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property – 542 turnover of property). (Annable, Zachery)
01/22/2021	<u>1802</u> Adversary case 21-03004. Complaint by Highland Capital Management, L.P. against Highland Capital Management Fund Advisors, L.P.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property – 542 turnover of property). (Annable, Zachery)
01/22/2021	<u>1803</u> Adversary case 21-03005. Complaint by Highland Capital Management, L.P. against NexPoint Advisors, L.P.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Adversary Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property – 542 turnover of property). (Annable, Zachery)
01/22/2021	<u>1804</u> Adversary case 21-03006. Complaint by Highland Capital Management, L.P. against Highland Capital Management Services, Inc.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Adversary Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property – 542 turnover of property). (Annable, Zachery)
01/22/2021	<u>1805</u> Adversary case 21-03007. Complaint by Highland Capital Management, L.P. against HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property – 542 turnover of property). (Annable, Zachery)
01/22/2021	<u>1806</u> Motion to file document under seal. Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund (Attachments: # <u>1</u> Proposed Order) (Vasek, Julian)
01/22/2021	<u>1807</u> INCORRECT EVENT: Attorney to refile. Notice (<i>Debtor's Omnibus Reply to Objections to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management L.P. (with Technical Modifications)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1661</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Party James Dondero., <u>1662</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by City of Richardson, Allen ISD, City of Allen, Dallas County, Kaufman County., <u>1666</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties Brad Borud, Jack Yang., <u>1667</u> Objection to confirmation of plan <i>with Certificate of Service</i> (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Get Good Trust, The Dugaboy Investment Trust., <u>1668</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor United States (IRS)., <u>1669</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Attachments: # 1 Exhibit A # 2 Exhibit B), <u>1670</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u>

	Chapter 11 plan) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Attachments: # 1 Exhibit A), <u>1673</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC., <u>1676</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties NexBank Title Inc., NexBank Securities Inc., NexBank Capital Inc., NexBank., <u>1678</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Patrick Daugherty.). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery) MODIFIED on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
01/22/2021	<u>1809</u> Support/supplemental document (<i>Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Annable, Zachery)
01/22/2021	<u>1810</u> Witness and Exhibit List [Exhibits 1–2 and 12–17] filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>1797</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> CLO Exhibit 2 # <u>2</u> CLO Exhibit 12 # <u>3</u> CLO Exhibit 13 # <u>4</u> CLO Exhibit 14 # <u>5</u> CLO Exhibit 15 # <u>6</u> CLO Exhibit 16 # <u>7</u> CLO Exhibit 17) (Kane, John) MODIFIED on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1811</u> NOTICE (Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit Q # <u>2</u> Exhibit R # <u>3</u> Exhibit S # <u>4</u> Exhibit T # <u>5</u> Exhibit U # <u>6</u> Exhibit V # <u>7</u> Exhibit W # <u>8</u> Exhibit X # <u>9</u> Exhibit Y # <u>10</u> Exhibit Z # <u>11</u> Exhibit AA # <u>12</u> Exhibit BB # <u>13</u> Exhibit CC # <u>14</u> Exhibit DD) (Annable, Zachery) Modified text on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1812</u> SEALED document regarding: CLO Exhibit 3 – Aberdeen Loan Funding, Ltd. Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1813</u> SEALED document regarding: CLO Exhibit 4 – Brentwood CLO Ltd. Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1814</u> Memorandum of Law in support of confirmation filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Annable, Zachery) Modified on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1815</u> SEALED document regarding: CLO Exhibit 5 – Grayson CLO Ltd. Servicing Agreement and Amendment to Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1816</u> SEALED document regarding: CLO Exhibit 6 – Liberty CLO, Ltd. Portfolio Management Agreement [CONFIDENTIAL] in connection to CLO's Witness and

	Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1817</u> SEALED document regarding: CLO Exhibit 7 – Red River CLO Ltd. Servicing Agreement and Amendment to Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1818</u> SEALED document regarding: CLO Exhibit 8 – Rockwall CDO Ltd. Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1819</u> SEALED document regarding: CLO Exhibit 9 – Valhalla CLO, Ltd. Reference Portfolio Management Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1820</u> SEALED document regarding: CLO Exhibit 10 – Westchester CLO, Ltd. Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1821</u> SEALED document regarding: CLO Exhibit 11 – Debtor Prepared Summary of CLO Holdco, Ltd.'s Interest in Debtor–Managed CLO Funds [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1822</u> (REDACTED EXHIBITS ADDED 01/27/2021); Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> List of 20 Largest Creditors C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u> Exhibit M # <u>14</u> Exhibit N # <u>15</u> Exhibit O # <u>16</u> Exhibit P # <u>17</u> Exhibit Q # <u>18</u> Exhibit R # <u>19</u> Exhibit S # <u>20</u> Exhibit T # <u>21</u> Exhibit U # <u>22</u> Exhibit V # <u>23</u> List of 20 Largest Creditors W # <u>24</u> Exhibit X # <u>25</u> Exhibit Y # <u>26</u> Exhibit Z # <u>27</u> Exhibit AA # <u>28</u> Exhibit BB # <u>29</u> Exhibit CC # <u>30</u> Exhibit DD # <u>31</u> Exhibit EE # <u>32</u> Exhibit FF # <u>33</u> Exhibit GG # <u>34</u> Exhibit HH # <u>35</u> Exhibit II # <u>36</u> Exhibit JJ # <u>37</u> Exhibit KK # <u>38</u> Exhibit LL # <u>39</u> Exhibit MM # <u>40</u> Exhibit NN # <u>41</u> Exhibit OO # <u>42</u> Exhibit PP # <u>43</u> Exhibit QQ # <u>44</u> Exhibit RR # <u>45</u> Exhibit SS # <u>46</u> Exhibit TT # <u>47</u> Exhibit UU # <u>48</u> Exhibit VV # <u>49</u> Exhibit WW # <u>50</u> Exhibit XX # <u>51</u> Exhibit YY # <u>52</u> Exhibit ZZ # <u>53</u> Exhibit AAA # <u>54</u> Exhibit BBB # <u>55</u> Exhibit CCC # <u>56</u> Exhibit DDD # <u>57</u> Exhibit EEE # <u>58</u> Exhibit FFF # <u>59</u> Exhibit GGG # <u>60</u> Exhibit HHH # <u>61</u> Exhibit III # <u>62</u> Exhibit JJJ # <u>63</u> Exhibit KKK # <u>64</u> Exhibit LLL # <u>65</u> Exhibit MMM # <u>66</u> Exhibit NNN # <u>67</u> Exhibit OOO # <u>68</u> Exhibit PPP # <u>69</u> Exhibit QQQ # <u>70</u> Exhibit RRR # <u>71</u> Exhibit SSS # <u>72</u> Exhibit TTT # <u>73</u> Exhibit UUU # <u>74</u> Exhibit VVV # <u>75</u> Exhibit WWW # <u>76</u> Exhibit XXX # <u>77</u> Exhibit YYY # <u>78</u> Exhibit ZZZ # <u>79</u> Exhibit AAAA # <u>80</u> Exhibit BBBB # <u>81</u> Exhibit CCCC # <u>82</u> Exhibit DDDD # <u>83</u> Exhibit EEEE # <u>84</u> Exhibit FFFF # <u>85</u> Exhibit GGGG # <u>86</u> Exhibit MMMM # <u>87</u> Exhibit NNNN # <u>88</u> Exhibit OOOO # <u>89</u> Exhibit PPPP # <u>90</u> Exhibit QQQQ # <u>91</u> Exhibit RRRR # <u>92</u> Exhibit SSSS # <u>93</u> Exhibit TTTT # <u>94</u> Exhibit UUUU # <u>95</u> Exhibit VVVV # <u>96</u> Exhibit WWWW # <u>97</u> Exhibit XXXX # <u>98</u> Exhibit YYYY # <u>99</u> Exhibit ZZZZ # <u>100</u> Exhibit AAAAA # <u>101</u> Exhibit BBBB # <u>102</u> Exhibit CCCC # <u>103</u> Exhibit DDDD # <u>104</u> Exhibit EEEE # <u>105</u> Exhibit FFFF # <u>106</u> Exhibit GGGG # <u>107</u> Exhibit HHHH # <u>108</u> Exhibit IIII # <u>109</u> Exhibit JJJJ # <u>110</u> Exhibit KKKK # <u>111</u> Exhibit LLLL # <u>112</u> Exhibit MMMM # <u>113</u> Exhibit NNNN # <u>114</u> Exhibit OOOO # <u>115</u> Exhibit PPPP # <u>116</u> Exhibit QQQQ # <u>117</u> Exhibit RRRR # <u>118</u> Exhibit SSSS # <u>119</u> Exhibit TTTT # <u>120</u> Exhibit UUUU # <u>121</u> Exhibit VVVV # <u>122</u> Exhibit WWWW # <u>123</u> Exhibit XXXX # <u>124</u> Exhibit YYYY # <u>125</u> Exhibit ZZZZ # <u>126</u> Exhibit AAAAAA # <u>127</u> Exhibit

	<p>BBBBBB # <u>128</u> Exhibit CCCCCC # <u>129</u> Exhibit DDDDDD # <u>130</u> Exhibit EEEEEEE # <u>131</u> Exhibit FFFFFFF # <u>132</u> Exhibit GGGGGG # <u>133</u> Exhibit HHHHHH # <u>134</u> Exhibit IIIIII # <u>135</u> Exhibit JJJJJJ # <u>136</u> Exhibit KKKKKK # <u>137</u> Exhibit LLLLLL # <u>138</u> Exhibit MMMMMM # <u>139</u> Exhibit NNNNNN # <u>140</u> Exhibit OOOOOO # <u>141</u> Exhibit PPPPPP # <u>142</u> Exhibit QQQQQQ # <u>143</u> Exhibit RRRRRR # <u>144</u> Exhibit SSSSSS # <u>145</u> Exhibit TTTTTT # <u>146</u> Exhibit UUUUUU # <u>147</u> Exhibit VVVVVV # <u>148</u> Exhibit WWWWWW # <u>149</u> Exhibit XXXXXX # <u>150</u> Exhibit YYYYYY # <u>151</u> Exhibit ZZZZZZ) (Annable, Zachery) Additional attachment(s) added on 1/27/2021 (Okafor, M.). Modified on 1/27/2021 (Okafor, M.). Additional attachment(s) added on 1/28/2021 (Okafor, M.).</p>
01/22/2021	<p><u>1823</u> Response unopposed to (related document(s): <u>1828</u> Response filed by Debtor Highland Capital Management, L.P.. Modified linkage on 1/25/2021 (Ecker, C.).</p>
01/22/2021	<p><u>1828</u> Response opposed to (related document(s): <u>1661</u> Objection to confirmation of plan filed by Interested Party James Dondero, <u>1662</u> Objection to confirmation of plan filed by Creditor City of Richardson, Creditor Allen ISD, Creditor Kaufman County, Creditor Dallas County, Creditor City of Allen, <u>1666</u> Objection to confirmation of plan filed by Interested Party Jack Yang, Interested Party Brad Borud, <u>1667</u> Objection to confirmation of plan filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1668</u> Objection to confirmation of plan filed by Creditor United States (IRS), <u>1669</u> Objection to confirmation of plan filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, <u>1670</u> Objection to confirmation of plan filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Funds I and its series, Interested Party Highland Healthcare Opportunities Fund, Interested Party Highland/iBoxx Senior Loan ETF, Interested Party Highland Opportunistic Credit Fund, Interested Party Highland Merger Arbitrage Fund, Interested Party Highland Funds II and its series, Interested Party Highland Small-Cap Equity Fund, Interested Party Highland Fixed Income Fund, Interested Party Highland Socially Responsible Equity Fund, Interested Party Highland Total Return Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund, Interested Party NexPoint Real Estate Strategies Fund, <u>1671</u> Objection, <u>1673</u> Objection to confirmation of plan filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC, <u>1676</u> Objection to confirmation of plan filed by Interested Party NexBank, Interested Party NexBank Capital Inc., Interested Party NexBank Securities Inc., Interested Party NexBank Title Inc., <u>1678</u> Objection to confirmation of plan filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery) Modified date on 1/25/2021 (Ecker, C.). (Entered: 01/25/2021)</p>
01/23/2021	<p><u>1824</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/23/2021	<p><u>1825</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>1785</u> Order granting motion for expedited hearing (Related Doc<u>1778</u>)(document set for hearing: <u>1777</u> Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief)) Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u>, Entered on 1/20/2021.) No. of Notices: 1. Notice Date 01/23/2021. (Admin.)</p>
01/24/2021	<p><u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # <u>1</u> Service List) (Vasek, Julian)</p>
01/25/2021	<p><u>1827</u> Emergency Motion to continue hearing on (related documents <u>1808</u> Chapter 11 plan) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
01/25/2021	<p><u>1829</u> Notice (<i>Notice of Increase in Hourly Rates for Hayward PLLC (Formerly Hayward & Associates PLLC) Effective as of January 1, 2021</i>) filed by Other Professional Hayward & Associates PLLC. (Annable, Zachery)</p>

01/25/2021	<u>1830</u> Order granting motion to continue hearing on (related document # <u>1827</u>) (related documents Modified Chapter 11 plan) Confirmation hearing to be held on 2/2/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Entered on 1/25/2021. (Okafor, M.)
01/25/2021	<u>1831</u> Order granting motion to file exhibits under seal (related document # <u>1806</u>) Entered on 1/25/2021. (Okafor, M.)
01/25/2021	<u>1832</u> Notice of hearing filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i> Filed by Get Good Trust, The Dugaboy Investment Trust (Attachments: # 1 Proposed Order)). Hearing to be held on 3/2/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1745</u> , (Draper, Douglas)
01/25/2021	<u>1833</u> Notice (<i>Notice of Certificate of Service re: Letter Dated January 19, 2021 to PCMG Trading Partners XXIII, L.P. from James P. Seery, Jr. re Highland Select Equity Fund, L.P.</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/25/2021	<u>1834</u> Certificate of service re: Notice Of Hearing filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1832</u> Notice of hearing). (Draper, Douglas)
01/25/2021	<u>1835</u> INCORRECT ENTRY: Attorney to refile. Motion to redact/restrict Emergency Redact (related document(s): <u>1822</u>) (Fee Amount \$26) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery) MODIFIED on 1/26/2021 (Ecker, C.).
01/25/2021	Receipt of filing fee for Motion to Redact/Restrict From Public View(19-34054-sgj11) [motion,mredact] (26.00). Receipt number 28441834, amount \$ 26.00 (re: Doc# <u>1835</u>). (U.S. Treasury)
01/25/2021	<u>1836</u> Motion to file document under seal. <i>Emergency Motion to File Competing Plan and Disclosure Statement Under Seal</i> Filed by Interested Party NexPoint Advisors, L.P. (Attachments: # <u>1</u> Proposed Order) (Rukavina, Davor)
01/25/2021	<u>1837</u> Certificate of service re: 1) <i>Notice of Hearing on Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Relief</i> ; and 2) <i>Order Granting Debtors Motion for an Expedited Hearing on the Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1783</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1777</u> Motion for leave (<i>Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B-1 # 3 Exhibit B-2 # 4 Exhibit C)). Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , filed by Debtor Highland Capital Management, L.P., <u>1785</u> Order granting motion for expedited hearing (Related Doc <u>1778</u>)(document set for hearing: <u>1777</u> Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief)) Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , Entered on 1/20/2021.). (Kass, Albert)
01/26/2021	<u>1838</u> Notice (<i>Notice of Settlement</i>) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A—Settlement Agreement) (Annable, Zachery)
01/26/2021	<u>1839</u> WITHDRAWN at # <u>1858</u> . Notice to take deposition of Frank Waterhouse filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland

	Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Hogewood, A.) Modified on 1/29/2021 (Ecker, C.).
01/26/2021	<u>1840</u> INCORRECT ENTRY: Attorney to refile. Motion to withdraw document <i>Notice of Withdrawal of Limited Objection of Senior Employees By Frank Waterhouse and Thomas Surgent Only</i> (related document(s) <u>1669</u> Objection to confirmation of plan) Filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (Smith, Frances) MODIFIED on 1/27/2021 (Ecker, C.).
01/26/2021	<u>1841</u> Certificate of service re: Notice of Withdrawal of Limited Objection of Senior Employees By Frank Waterhouse and Thomas Surgent Only filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1840</u> Motion to withdraw document <i>Notice of Withdrawal of Limited Objection of Senior Employees By Frank Waterhouse and Thomas Surgent Only</i> (related document(s) <u>1669</u> Objection to confirmation of plan)). (Smith, Frances)
01/26/2021	<u>1842</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 12/31/2020, Fee: \$416,359.08, Expenses: \$5,403.36. Filed by Attorney Juliana Hoffman Objections due by 2/16/2021. (Hoffman, Juliana)
01/26/2021	<u>1843</u> Stipulation by Highland Capital Management, L.P. and Crescent TC Investors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease). (Hayward, Melissa)
01/26/2021	<u>1844</u> Certificate of service re: <i>Documents Served on January 21, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1788</u> Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document <u>1625</u>) Entered on 1/21/2021. (Okafor, M.), <u>1791</u> Notice (<i>Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1648</u> Notice (<i>Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)), <u>1719</u> Notice (<i>Second Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)), <u>1749</u> Notice (<i>Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit

	J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)).). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/26/2021	1850 Hearing held on 1/26/2021. (RE: related document(s) <u>1777</u> Motion for leave (Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non–Insider Employees and Granting Related Relief) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and J. Morris for Debtor; M. Clemente for UCC; J. Kane for CLO Holdco; D. Rukavina and L. Hogewood for Advisors and Funds; J. Wilson for J. Dondero. Evidentiary hearing, Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 01/27/2021)
01/27/2021	<u>1845</u> Withdrawal of Limited Objection of Senior Employees By Frank Waterhouse and Thomas Surgent Only filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1669</u> Objection to confirmation of plan). (Smith, Frances)
01/27/2021	<u>1846</u> Notice to take deposition of Isaac Leventon filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/27/2021	<u>1847</u> Notice (Fourth Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
01/27/2021	<u>1848</u> Amended Motion to redact/restrict (related document(s): <u>1835</u>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order # <u>2</u> Exhibit PPPP # <u>3</u> Exhibit QQQQ # <u>4</u> Exhibit RRRR # <u>5</u> Exhibit SSSS # <u>6</u> Exhibit TTTT # <u>7</u> Exhibit UUUU # <u>8</u> Exhibit VVVV # <u>9</u> Exhibit WWWW # <u>10</u> Exhibit XXXX # <u>11</u> Exhibit YYYYY # <u>12</u> Exhibit ZZZZ # <u>13</u> Exhibit DDDDDD) (Annable, Zachery)
01/27/2021	<u>1849</u> Order Granting Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non–Insider Employees and Granting Related Relief (related document # <u>1777</u>) Entered on 1/27/2021. (Okafor, M.)
01/27/2021	<u>1851</u> Order granting motion to seal documents (related document # <u>1836</u>) Entered on 1/27/2021. (Okafor, M.)
01/27/2021	<u>1852</u> Order Granting Amended Emergency Motion to Redact Certain Exhibits Attached to Debtors Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021 (Related Doc # <u>1848</u>) Entered on 1/27/2021. (Okafor, M.)
01/27/2021	<u>1853</u> Application for compensation Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 11/30/2020, Fee: \$1,620,489.60, Expenses: \$8,974.00. Filed by Attorney Juliana Hoffman Objections due by 2/17/2021. (Hoffman, Juliana)
01/27/2021	<u>1854</u> Certificate of service re: Documents Served on January 22, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1807</u> INCORRECT EVENT: Attorney to refile. Notice (Debtor's Omnibus Reply to Objections to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management L.P. (with Technical Modifications) filed by Debtor Highland Capital Management, L.P. (RE: related

document(s)1661 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Interested Party James Dondero., 1662 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by City of Richardson, Allen ISD, City of Allen, Dallas County, Kaufman County., 1666 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Interested Parties Brad Borud, Jack Yang., 1667 Objection to confirmation of plan *with Certificate of Service* (RE: related document(s)1472 Chapter 11 plan) filed by Get Good Trust, The Dugaboy Investment Trust., 1668 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Creditor United States (IRS)., 1669 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Attachments: # 1 Exhibit A # 2 Exhibit B), 1670 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Attachments: # 1 Exhibit A), 1673 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC., 1676 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Interested Parties NexBank Title Inc., NexBank Securities Inc., NexBank Capital Inc., NexBank., 1678 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Creditor Patrick Daugherty.). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C) (Annable, Zachery) MODIFIED on 1/25/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., 1808 Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1472 Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., 1809 Support/supplemental document (*Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)*) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1808 Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., 1811 NOTICE (Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1808 Chapter 11 plan). (Attachments: # 1 Exhibit Q # 2 Exhibit R # 3 Exhibit S # 4 Exhibit T # 5 Exhibit U # 6 Exhibit V # 7 Exhibit W # 8 Exhibit X # 9 Exhibit Y # 10 Exhibit Z # 11 Exhibit AA # 12 Exhibit BB # 13 Exhibit CC # 14 Exhibit DD) (Annable, Zachery) Modified text on 1/25/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., 1814 Memorandum of Law in support of confirmation filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1808 Chapter 11 plan). (Annable, Zachery) Modified on 1/25/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., 1822 (REDACTED EXHIBITS ADDED 01/27/2021); Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1808 Chapter 11 plan). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 List of 20 Largest Creditors C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Exhibit J # 11 Exhibit K # 12 Exhibit L # 13 Exhibit M # 14 Exhibit N # 15 Exhibit O # 16 Exhibit P # 17 Exhibit Q # 18 Exhibit R # 19 Exhibit S # 20 Exhibit T # 21 Exhibit U # 22 Exhibit V # 23 List of 20 Largest Creditors W # 24 Exhibit X # 25 Exhibit Y # 26 Exhibit Z # 27 Exhibit AA # 28 Exhibit BB # 29 Exhibit CC # 30 Exhibit DD # 31 Exhibit EE # 32 Exhibit FF # 33 Exhibit GG # 34 Exhibit HH # 35 Exhibit II # 36 Exhibit JJ # 37 Exhibit KK # 38 Exhibit LL # 39 Exhibit MM # 40 Exhibit NN # 41 Exhibit OO # 42 Exhibit PP # 43 Exhibit QQ # 44 Exhibit RR # 45 Exhibit SS # 46 Exhibit TT # 47 Exhibit UU # 48 Exhibit VV # 49 Exhibit WW # 50 Exhibit XX # 51 Exhibit YY # 52 Exhibit ZZ # 53 Exhibit AAA # 54 Exhibit BBB # 55 Exhibit CCC # 56 Exhibit DDD # 57 Exhibit EEE # 58 Exhibit FFF # 59 Exhibit GGG # 60 Exhibit HHH # 61 Exhibit III # 62 Exhibit JJJ # 63 Exhibit KKK # 64 Exhibit LLL # 65 Exhibit MMM # 66 Exhibit NNN # 67 Exhibit OOO # 68 Exhibit PPP # 69 Exhibit QQQ # 70 Exhibit RRR # 71 Exhibit SSS # 72 Exhibit TTT # 73 Exhibit UUU # 74 Exhibit VVV # 75 Exhibit WWW # 76 Exhibit XXX # 77 Exhibit YYY # 78 Exhibit ZZZ # 79 Exhibit AAAA # 80 Exhibit BBBB # 81 Exhibit CCCC # 82 Exhibit DDDD # 83 Exhibit EEEE # 84 Exhibit FFFF # 85 Exhibit GGGG # 86 Exhibit MMMM # 87 Exhibit NNNN # 88 Exhibit OOOO # 89 Exhibit PPPP # 90 Exhibit

	<p>QQQQ # 91 Exhibit RRRR # 92 Exhibit SSSS # 93 Exhibit TTTT # 94 Exhibit UUUU # 95 Exhibit VVVV # 96 Exhibit WWWW # 97 Exhibit XXXX # 98 Exhibit YYYYY # 99 Exhibit ZZZZ # 100 Exhibit AAAAA # 101 Exhibit BBBB # 102 Exhibit CCCC # 103 Exhibit DDDD # 104 Exhibit EEEE # 105 Exhibit FFFF # 106 Exhibit GGGG # 107 Exhibit HHHH # 108 Exhibit IIII # 109 Exhibit JJJJ # 110 Exhibit KKKK # 111 Exhibit LLLL # 112 Exhibit MMMM # 113 Exhibit NNNN # 114 Exhibit OOOO # 115 Exhibit PPPP # 116 Exhibit QQQQ # 117 Exhibit RRRR # 118 Exhibit SSSS # 119 Exhibit TTTT # 120 Exhibit UUUU # 121 Exhibit VVVV # 122 Exhibit WWWW # 123 Exhibit XXXX # 124 Exhibit YYYYY # 125 Exhibit ZZZZ # 126 Exhibit AAAAAA # 127 Exhibit BBBB # 128 Exhibit CCCC # 129 Exhibit DDDDD # 130 Exhibit EEEEE # 131 Exhibit FFFFF # 132 Exhibit GGGGG # 133 Exhibit HHHHH # 134 Exhibit IIIII # 135 Exhibit JJJJJ # 136 Exhibit KKKKK # 137 Exhibit LLLLL # 138 Exhibit MMMMM # 139 Exhibit NNNNN # 140 Exhibit OOOOO # 141 Exhibit PPPPP # 142 Exhibit QQQQQ # 143 Exhibit RRRRR # 144 Exhibit SSSSS # 145 Exhibit TTTTT # 146 Exhibit UUUUU # 147 Exhibit VVVVV # 148 Exhibit WWWWW # 149 Exhibit XXXXX # 150 Exhibit YYYYYY # 151 Exhibit ZZZZZ (Annable, Zachery) Additional attachment(s) added on 1/27/2021 (Okafor, M.). Modified on 1/27/2021 (Okafor, M.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/28/2021	<u>1855</u> Notice of Appearance and Request for Notice by Jeff P. Prostok filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Prostok, Jeff)
01/28/2021	<u>1856</u> Notice of Appearance and Request for Notice by Suzanne K. Rosen filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Rosen, Suzanne)
01/28/2021	<u>1857</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1624</u> Motion to assume executory contract or unexpired lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Proposed Order)). Hearing to be held on 2/2/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1624</u> , (Annable, Zachery)
01/28/2021	<u>1858</u> <i>Withdrawal of Notice of Deposition</i> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1839</u> Notice to take deposition). (Hogewood, A.)
01/28/2021	<u>1859</u> SEALED document regarding: PLAN OF REORGANIZATION OF JAMES DONDERO, NEXPOINT ADVISORS, L.P. per court order filed by Interested Parties James Dondero, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1851</u> Order on motion to seal). (Rukavina, Davor)
01/28/2021	<u>1860</u> SEALED document regarding: DISCLOSURE STATEMENT IN SUPPORT OF PLAN OF REORGANIZATION per court order filed by Interested Parties James Dondero, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1851</u> Order on motion to seal). (Rukavina, Davor)
01/28/2021	<u>1861</u> Certificate of service re: <i>Documents Served on or Before January 25, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1824</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1827</u> Emergency Motion to continue hearing on (related documents <u>1808</u> Chapter 11 plan) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1829</u> Notice (<i>Notice of Increase in Hourly Rates for Hayward PLLC (Formerly Hayward & Associates PLLC) Effective as of January 1, 2021</i>) filed by Other Professional Hayward & Associates

	<p>PLLC. filed by Other Professional Hayward & Associates PLLC, <u>1830</u> Order granting motion to continue hearing on (related document <u>1827</u>) (related documents Modified Chapter 11 plan) Confirmation hearing to be held on 2/2/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Entered on 1/25/2021. (Okafor, M.). (Kass, Albert)</p>
01/29/2021	<p><u>1862</u> Transcript regarding Hearing Held 01/26/2021 (257 pages) RE: KERP Motion <u>1777</u>. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 04/29/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1850 Hearing held on 1/26/2021. (RE: related document(s) <u>1777</u> Motion for leave (Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and J. Morris for Debtor; M. Clemente for UCC; J. Kane for CLO Holdco; D. Rukavina and L. Hogewood for Advisors and Funds; J. Wilson for J. Dondero. Evidentiary hearing. Motion granted. Counsel to upload order.)). Transcript to be made available to the public on 04/29/2021. (Rehling, Kathy)</p>
01/29/2021	<p><u>1863</u> Amended Witness and Exhibit List of <i>Funds and Advisors</i> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1793</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> Exhibit 39 # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u> Exhibit 42 # <u>43</u> Exhibit 43 # <u>44</u> Exhibit 44 # <u>45</u> Exhibit 45 # <u>46</u> Exhibit 46 # <u>47</u> Exhibit 47 # <u>48</u> Exhibit 48 # <u>49</u> Exhibit 49 # <u>50</u> Exhibit 50 # <u>51</u> Exhibit 51 # <u>52</u> Exhibit 52 # <u>53</u> Exhibit 53 # <u>54</u> Exhibit 54 # <u>55</u> Exhibit 55 # <u>56</u> Exhibit 56 # <u>57</u> Exhibit 57 # <u>58</u> Exhibit 58 # <u>59</u> Exhibit 59 # <u>60</u> Exhibit 60 # <u>61</u> Exhibit 61 # <u>62</u> Exhibit 62 # <u>63</u> Exhibit 63 # <u>64</u> Exhibit 64 # <u>65</u> Exhibit 65 # <u>66</u> Exhibit 66 # <u>67</u> Exhibit 67 # <u>68</u> Exhibit 68 # <u>69</u> Exhibit 69 # <u>70</u> Exhibit 70 # <u>71</u> Exhibit 71 # <u>72</u> Exhibit 72 # <u>73</u> Exhibit 73 # <u>74</u> Exhibit 74 # <u>75</u> Exhibit 75 # <u>76</u> Exhibit 76 # <u>77</u> Exhibit 77 # <u>78</u> Exhibit 78 # <u>79</u> Exhibit 79 # <u>80</u> Exhibit 80 # <u>81</u> Exhibit 81 # <u>82</u> Exhibit 82) (Hogewood, A.)</p>
01/29/2021	<p><u>1864</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from November 1, 2020 through November 30, 2020</i>) filed by Other Professional Development Specialists, Inc. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
01/29/2021	<p><u>1865</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2020 through December 31, 2020</i>) filed by Other Professional Development Specialists, Inc. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
01/29/2021	<p><u>1866</u> Amended Witness and Exhibit List (<i>Debtor's Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1822</u> List</p>

	(witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit SSSSS # <u>2</u> Exhibit AAAAAAA # <u>3</u> Exhibit BBBB BBB # <u>4</u> Exhibit CCCCCC # <u>5</u> Exhibit DDDDDDD # <u>6</u> Exhibit EEEEEEE) (Annable, Zachery)
01/29/2021	<u>1867</u> Certificate of service re: <i>1) Notice of Settlement; 2) Fourteenth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from December 1, 2020 Through December 31, 2020; and 3) Stipulation Extending Deadline to Assume Lease and Setting Motion to Assume for Hearing at Confirmation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1838</u> Notice (<i>Notice of Settlement</i>) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A—Settlement Agreement) filed by Debtor Highland Capital Management, L.P., <u>1842</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 12/31/2020, Fee: \$416,359.08, Expenses: \$5,403.36. Filed by Attorney Juliana Hoffman Objections due by 2/16/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1843</u> Stipulation by Highland Capital Management, L.P. and Crescent TC Investors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/01/2021	Adversary case 3:20-ap-3128 closed (Ecker, C.)
02/01/2021	<u>1868</u> Supplemental Objection to confirmation of plan <i>with Certificate of Service</i> (RE: related document(s) <u>1472</u> Chapter 11 plan, <u>1808</u> Chapter 11 plan) filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
02/01/2021	<u>1869</u> Certificate of service re: Monthly Staffing Reports by Development Specialists, Inc. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1864</u> Notice (generic), <u>1865</u> Notice (generic)). (Annable, Zachery)
02/01/2021	<u>1870</u> Notice of appeal <i>and Statement of Election</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust. Appellant Designation due by 02/16/2021. (Draper, Douglas). Related document(s) <u>1788</u> Order on motion to compromise controversy. Modified LINKAGE on 2/4/2021 (Blanco, J.).
02/01/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal.ntcapl] (298.00). Receipt number 28458158, amount \$ 298.00 (re: Doc# <u>1870</u>). (U.S. Treasury)
02/01/2021	<u>1871</u> Reply to (related document(s): <u>1784</u> Objection filed by Interested Party James Dondero) (<i>Debtor's Reply to James Dondero's Objection to Debtor's Proposed Assumption of Executory Contracts and Cure Amounts Proposed in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/01/2021	<u>1872</u> SEALED document regarding: Exhibit 76 per court order filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1831</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 77 # <u>2</u> Exhibit 78 # <u>3</u> Exhibit 79 # <u>4</u> Exhibit 80 # <u>5</u> Exhibit 81 # <u>6</u> Exhibit 82) (Vasek, Julian)
02/01/2021	<u>1873</u> Notice (<i>Fifth Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's</i>

	<i>Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
02/01/2021	<u>1874</u> Amended Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1795</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Dondero Ex. 1 # <u>2</u> Dondero Ex. 2 # <u>3</u> Dondero Ex. 3 # <u>4</u> Dondero Ex. 4 # <u>5</u> Dondero Ex. 5 # <u>6</u> Dondero Ex. 6 # <u>7</u> Dondero Ex. 7 # <u>8</u> Dondero Ex. 8 # <u>9</u> Dondero Ex. 9 # <u>10</u> Dondero Ex. 10 # <u>11</u> Dondero Ex. 11 # <u>12</u> Dondero Ex. 12 # <u>13</u> Dondero Ex. 13 # <u>14</u> Dondero Ex. 14 # <u>15</u> Dondero Ex. 15 # <u>16</u> Dondero Ex. 16 # <u>17</u> Dondero Ex. 17 # <u>18</u> Dondero Ex. 18 # <u>19</u> Dondero Ex. 19 # <u>20</u> Dondero Ex. 20) (Assink, Bryan)
02/01/2021	<u>1875</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit DD # <u>4</u> Exhibit EE # <u>5</u> Exhibit FF) (Annable, Zachery)
02/01/2021	<u>1876</u> Withdrawal (<i>Notice of Withdrawal of Document</i>) filed by Interested Party James Dondero (RE: related document(s) <u>1784</u> Objection). (Assink, Bryan)
02/01/2021	<u>1877</u> Amended Witness and Exhibit List (<i>Debtor's Second Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1822</u> List (witness/exhibit/generic), <u>1866</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit SSSSS # <u>2</u> Exhibit DDDDDD # <u>3</u> Exhibit FFFFFFFF # <u>4</u> Exhibit GGGGGG # <u>5</u> Exhibit HHHHHH # <u>6</u> Exhibit IIIIII # <u>7</u> Exhibit JJJJJJ # <u>8</u> Exhibit KKKKKK # <u>9</u> Exhibit LLLLLL # <u>10</u> Exhibit MMMMMM # <u>11</u> Exhibit NNNNNN # <u>12</u> Exhibit OOOOOO # <u>13</u> Exhibit PPPPPP # <u>14</u> Exhibit QQQQQQ) (Annable, Zachery)
02/01/2021	<u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Proposed Order Exhibit A # <u>2</u> Exhibit Exhibit B) (Montgomery, Paige)
02/01/2021	<u>1879</u> Certificate of service re: <i>Documents Served on January 27, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1846</u> Notice to take deposition of Isaac Leventon filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1847</u> Notice (<i>Fourth Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). filed by Debtor Highland Capital Management, L.P., <u>1849</u> Order Granting Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief (related document <u>1777</u>) Entered on 1/27/2021. (Okafor, M.), <u>1852</u> Order Granting Amended Emergency Motion to Redact Certain Exhibits Attached to Debtors Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021 (Related Doc <u>1848</u>) Entered on 1/27/2021. (Okafor, M.)). (Kass, Albert)
02/01/2021	

	<u>1880</u> Response opposed to (related document(s): <u>1868</u> Objection to confirmation of plan filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
02/01/2021	<u>1881</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1655</u> Application for compensation <i>Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, Fee: \$710,280.45, Expenses: \$1,479.47.). (Hoffman, Juliana)
02/02/2021	<u>1882</u> Clerk's correspondence requesting File an amended appeal from attorney for appellant. (RE: related document(s) <u>1870</u> Notice of appeal and <i>Statement of Election</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust. Appellant Designation due by 02/16/2021.) Responses due by 2/5/2021. (Blanco, J.)
02/02/2021	<u>1884</u> Request for transcript regarding a hearing held on 2/2/2021. The requested turn-around time is hourly. (Edmond, Michael)
02/02/2021	<u>1885</u> Hearing continued (RE: related document(s) <u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan).) Continued Confirmation hearing to be held on 2/3/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Edmond, Michael)
02/02/2021	<u>1886</u> Certificate of service re: <i>Documents Served on or Before January 28, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1853</u> Application for compensation <i>Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 11/30/2020, Fee: \$1,620,489.60, Expenses: \$8,974.00. Filed by Attorney Juliana Hoffman Objections due by 2/17/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1857</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1624</u> Motion to assume executory contract or unexpired lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Proposed Order)). Hearing to be held on 2/2/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1624</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/02/2021	<u>1921</u> Hearing held on 2/2/2021. (RE: related document(s) <u>1624</u> Motion to assume executory contract or unexpired lease Filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, J. Morris, I. Kharesh, and G. Demo for Debtor; M. Clemente for UCC; T. Mascherin for Redeemer Committee; R. Patel for Acis; A. Clubock for UBS; J. Kathman for P. Daugherty; E. Weisgerber for HarbourVest; C. Taylor for J. Dondero; D. Rukavina and A. Hogewood for Advisors and Funds; D. Draper for Dugaboy and Get Good Trusts; L. Drawhorn for NexBank; M. Held for Crescent landlord. L. Lambert for UST. Matter not taken up in light of all-day confirmation hearing.) (Edmond, Michael) (Entered: 02/09/2021)
02/02/2021	<u>1922</u> Hearing held on 2/2/2021. (RE: related document(s) <u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Appearances: J. Pomeranz, J. Morris, I. Kharesh, and G. Demo for Debtor; M. Clemente for UCC; T. Mascherin for Redeemer Committee; R. Patel for Acis; A. Clubock for UBS; J. Kathman for P. Daugherty; E. Weisgerber for HarbourVest; C. Taylor for J. Dondero; D. Rukavina and A. Hogewood for Advisors and Funds; D. Draper for Dugaboy and Get Good Trusts; L. Drawhorn for NexBank; M. Held for Crescent landlord. L. Lambert for UST. Evidentiary hearing. Hearing recessed and will resume on 2/3/21.) (Edmond, Michael) (Entered: 02/09/2021)
02/03/2021	<u>1887</u> Chapter 11 ballot summary filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)

02/03/2021	<u>1888</u> Application for administrative expenses Filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc. (Drawhorn, Lauren)
02/03/2021	<u>1889</u> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1870</u> Notice of appeal). (Draper, Douglas)
02/03/2021	<u>1890</u> Request for transcript regarding a hearing held on 2/3/2021. The requested turn-around time is hourly. (Edmond, Michael)
02/03/2021	<u>1891</u> Certificate of service re: <i>Supplemental Certification of Patrick M. Leathem with Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1887</u> Chapter 11 ballot summary filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/03/2021	<u>1892</u> Certificate of service re: 1) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from November 1, 2020 Through November 30, 2020</i> ; 2) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2020 Through December 31, 2020</i> ; and 3) <i>Debtor's Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1864</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from November 1, 2020 through November 30, 2020</i>) filed by Other Professional Development Specialists, Inc. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Other Professional Development Specialists, Inc., <u>1865</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2020 through December 31, 2020</i>) filed by Other Professional Development Specialists, Inc. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Other Professional Development Specialists, Inc., <u>1866</u> Amended Witness and Exhibit List (<i>Debtor's Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1822</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit SSSSS # 2 Exhibit AAAAAAA # 3 Exhibit BBBB BBB # 4 Exhibit CCCCCC # 5 Exhibit DDDDDDD # 6 Exhibit EEEEEEE) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/03/2021	<u>1893</u> Certificate of service re: <i>Documents Served on February 1, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1871</u> Reply to (related document(s): <u>1784</u> Objection filed by Interested Party James Dondero) (<i>Debtor's Reply to James Dondero's Objection to Debtor's Proposed Assumption of Executory Contracts and Cure Amounts Proposed in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1873</u> Notice (<i>Fifth Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). filed by Debtor Highland Capital Management, L.P., <u>1875</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit DD # 4 Exhibit EE # 5 Exhibit FF) filed by Debtor Highland Capital Management, L.P., <u>1877</u> Amended Witness and Exhibit List (<i>Debtor's</i>

	<p><i>Second Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1822</u> List (witness/exhibit/generic), <u>1866</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit SSSSS # 2 Exhibit DDDDDD # 3 Exhibit FFFFFFFF # 4 Exhibit GGGGGGGG # 5 Exhibit HHHHHHHH # 6 Exhibit IIIIII # 7 Exhibit JJJJJJ # 8 Exhibit KKKKKKKK # 9 Exhibit LLLLLLLL # 10 Exhibit MMMMMMMM # 11 Exhibit NNNNNNNN # 12 Exhibit OOOOOOOO # 13 Exhibit PPPPPPPP # 14 Exhibit QQQQQQQQ) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/03/2021	<p>1902 Bench Ruling set (RE: related document(s)<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan).) Hearing to be held on 2/8/2021 at 09:00 AM Dallas Judge Jernigan Ctrm for <u>1808</u>, (Ellison, T.) (Entered: 02/05/2021)</p>
02/03/2021	<p><u>1915</u> Court admitted exhibits date of hearing February 3, 2021 (RE: related document(s)<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan).) (COURT ADMITTED ALL THE DEBTOR'S EXHIBIT'S THAT APPEAR AT DOC. #1822, #1866 & #1877 & DONDERO'S EXHIBITS #6 THROUGH #12, #15, 16 & #17; & HIGHLAND CAPTIAL MGMT. FUNDING EXHIBIT #2 AT DOC. #1863 AND JUDGE JERNIGAN TOOK JUDICIAL NOTICE OF THE DEBTOR'S SCHEDULES) (Edmond, Michael) (Entered: 02/08/2021)</p>
02/03/2021	<p>1923 Hearing held on 2/3/2021. (RE: related document(s)<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan) (Appearances: J. Pomeranz, J. Morris, I. Kharesh, and G. Demo for Debtor; M. Clemente for UCC; T. Mascherin for Redeemer Committee; R. Patel for Acis; A. Clubock for UBS; J. Kathman for P. Daugherty; E. Weisgerber for HarbourVest; C. Taylor for J. Dondero; D. Rukavina and A. Hogewood for Advisors and Funds; D. Draper for Dugaboy and Get Good Trusts; L. Drawhorn for NexBank and NexPoint; L. Lambert for UST. Evidentiary hearing. Court took matter under advisement after conclusion of evidence and arguments. Bench ruling scheduled for 2/8/21 at 9:00 am.) (Edmond, Michael) (Entered: 02/09/2021)</p>
02/04/2021	<p><u>1894</u> Transcript regarding Hearing Held 02/02/2021 (295 pages) RE: Confirmation Hearing, Day One (#1808); Motion to Assume (#1624). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/5/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1885 Hearing continued (RE: related document(s)<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan).) Continued Confirmation hearing to be held on 2/3/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm.). Transcript to be made available to the public on 05/5/2021. (Rehling, Kathy)</p>
02/04/2021	<p><u>1895</u> Amended Witness and Exhibit List (<i>Debtor's Third Amended Witness and Exhibit List with Respect to Confirmation Hearing Held on February 3, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1877</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit PPPPPPP # <u>2</u> Exhibit RRRRRRRR # <u>3</u> Exhibit SSSSSSS # <u>4</u> Exhibit TTTTTTTT # <u>5</u> Exhibit UUUUUUU) (Annable, Zachery)</p>
02/04/2021	<p><u>1896</u> Stipulation by Highland Capital Management, L.P. and Crescent TC Investors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease). (Hayward, Melissa)</p>
02/05/2021	<p><u>1898</u> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>

02/05/2021	<u>1899</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-CV-00261-L (Lindsay). (RE: related document(s) <u>1870</u> Notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas). Related document(s) <u>1788</u> Order on motion to compromise controversy. Modified LINKAGE on 2/4/2021 (Blanco, J.), <u>1889</u> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1870</u> Notice of appeal).) (Blanco, J.)
02/05/2021	<u>1900</u> Certificate of mailing regarding appeal (RE: related document(s) <u>1889</u> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1870</u> Notice of appeal).) (Blanco, J.) Additional attachment(s) added on 2/5/2021 (Blanco, J.).
02/05/2021	<u>1901</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1870</u> Notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust. Related document(s) <u>1788</u> Order on motion to compromise controversy. Modified LINKAGE on 2/4/2021 (Blanco, J.).) (Blanco, J.)
02/05/2021	<u>1903</u> Order approving stipulation extending deadline to assume lease and setting motion to assume for hearing oat confirmation, which is currently set for February 2, 2021 at 9:30 a.m (RE: related document(s) <u>1843</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/5/2021 (Okafor, M.)
02/05/2021	<u>1904</u> Order approving second stipulation extending deadline to assume lease and setting motion to assume for hearing at confirmation (RE: related document(s) <u>1896</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/5/2021 (Okafor, M.)
02/05/2021	<u>1905</u> Transcript regarding Hearing Held 02/03/2021 (257 pages) RE: Confirmation Hearing, Day Two (#1808); Motion to Assume (#1624). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/6/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1885</u> Hearing continued (RE: related document(s) <u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan).) Continued Confirmation hearing to be held on 2/3/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm.). Transcript to be made available to the public on 05/6/2021. (Rehling, Kathy)
02/05/2021	<u>1906</u> Certificate of service re: <i>Official Committee of Unsecured Creditors' Motion for an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B) filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
02/05/2021	<u>1907</u> Certificate of service re: <i>Response of the Official Committee of Unsecured Creditors to Supplemental Objection to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i> Filed by the Dugaboy Investment Trust and Get Good Trust Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1880</u> Response opposed to (related document(s): <u>1868</u> Objection to confirmation of plan filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
02/05/2021	<u>1908</u> Certificate of service re: <i>Documents Served on February 4, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1895</u> Amended Witness and

	<p>Exhibit List (<i>Debtor's Third Amended Witness and Exhibit List with Respect to Confirmation Hearing Held on February 3, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1877 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit P P P P P P # 2 Exhibit R R R R R R R R # 3 Exhibit S S S S S S # 4 Exhibit T T T T T T # 5 Exhibit U U U U U U U U) filed by Debtor Highland Capital Management, L.P., 1896 Stipulation by Highland Capital Management, L.P. and Crescent TC Investors, L.P., filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1623 Motion to extend time to assume unexpired nonresidential real property lease). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/05/2021	<p>1909 Certificate of service re: (<i>Supplemental</i>) <i>Solicitation Materials Served on February 1, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)1630 Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)1472 Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)944 Chapter 11 plan, 1079 Chapter 11 plan, 1287 Chapter 11 plan, 1383 Chapter 11 plan, 1450 Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., 1473 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement, 1080 Disclosure statement, 1289 Disclosure statement, 1384 Disclosure statement, 1453 Disclosure statement). filed by Debtor Highland Capital Management, L.P., 1476 Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s)1472 Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and 1473 Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
02/06/2021	<p>1910 Appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)1870 Notice of appeal, 1889 Amended notice of appeal, 1899 Notice of docketing notice of appeal/record, 1900 Certificate of mailing regarding appeal, 1901 Notice regarding the record for a bankruptcy appeal). Appellee designation due by 02/22/2021. (Draper, Douglas)</p>
02/06/2021	<p>1911 Statement of issues on appeal, filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)1870 Notice of appeal, 1889 Amended notice of appeal, 1899 Notice of docketing notice of appeal/record, 1901 Notice regarding the record for a bankruptcy appeal, 1910 Appellant designation). (Draper, Douglas)</p>
02/08/2021	<p>1912 Clerk's correspondence requesting Amended designation from attorney for appellant. (RE: related document(s)1910 Appellant designation of contents for inclusion in record on appeal) Responses due by 2/10/2021. (Blanco, J.)</p>
02/08/2021	<p>1913 Request for transcript (ruling only) regarding a hearing held on 2/8/2021. The requested turn-around time is hourly. (Edmond, Michael)</p>
02/08/2021	<p>1914 Motion for leave (<i>Motion for Status Conference</i>) Filed by Interested Party James Dondero (Attachments: # 1 Proposed Order) (Assink, Bryan)</p>
02/08/2021	<p>1924 Hearing held on 2/8/2021. (RE: related document(s)1808 Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1472 Chapter 11 plan). (Appearances: J. Pomeranz; M. Clemente for UCC; M. Lynn, J. Bonds, and B. Assink for J. Dondero; D. Rukavina and L. Hogewood for Advisors and Funds; D. Draper for Dugaboy and Get Good Trusts; L. Lambert for UST (numerous others; full roll call not taken). Court read bench ruling approving plan. Counsel to incorporate courts bench ruling into their own set of FOFs, COLS and Order to be submitted.) (Edmond, Michael) (Entered: 02/09/2021)</p>
02/09/2021	

	<p><u>1916</u> Notice of hearing (<i>Status Conference</i>) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s)<u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # 1 Service List)). Status Conference to be held on 3/22/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Attachments: # <u>1</u> Service List) (Vasek, Julian)</p>
02/09/2021	<p><u>1917</u> Transcript regarding Hearing Held 02/08/2021 (51 pages) RE: Bench Ruling. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/10/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1902 Bench Ruling set (RE: related document(s)<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan).) Hearing to be held on 2/8/2021 at 09:00 AM Dallas Judge Jernigan Ctrm for <u>1808</u>, (Ellison, T.)). Transcript to be made available to the public on 05/10/2021. (Rehling, Kathy)</p>
02/09/2021	<p><u>1918</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
02/09/2021	<p><u>1919</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to December 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)</p>
02/09/2021	<p><u>1920</u> Certificate of service re: 1) Debtors Notice of Rule 30(b)(6) Deposition to NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC; 2) Order Approving Stipulation Extending Deadline to Assume Lease and Setting Motion to Assume for Hearing at Confirmation; and 3) Order Approving Second Stipulation Extending Deadline to Assume Lease and Setting Motion to Assume for Hearing at Confirmation Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1898</u> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1903</u> Order approving stipulation extending deadline to assume lease and setting motion to assume for hearing oat confirmation, which is currently set for February 2, 2021 at 9:30 a.m (RE: related document(s)<u>1843</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/5/2021 (Okafor, M.), <u>1904</u> Order approving second stipulation extending deadline to assume lease and setting motion to assume for hearing at confirmation (RE: related document(s)<u>1896</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/5/2021 (Okafor, M.)). (Kass, Albert)</p>
02/09/2021	<p><u>1925</u> Application for compensation <i>First Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 11/1/2020 to 12/31/2020, Fee: \$73121.04, Expenses: \$10.35. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 3/2/2021. (Hesse, Gregory)</p>
02/10/2021	<p><u>1926</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1771</u> Application for compensation <i>Fifteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2020 through December 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to). (Pomerantz, Jeffrey)</p>

02/10/2021	<u>1927</u> Application for compensation <i>Fourteenth Application of FTI Consulting, Inc. for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 12/31/2020, Fee: \$239,297.76, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 3/3/2021. (Hoffman, Juliana)
02/10/2021	<u>1928</u> Amended appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1910</u> Appellant designation). (Draper, Douglas)
02/11/2021	<u>1929</u> Order denying motion for status conference (related document # <u>1914</u>) Entered on 2/11/2021. (Ecker, C.)
02/11/2021	<u>1930</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Stanton Law Firm PC (Claim No. 163, Amount \$88,133.99) To Cedar Glade LP. Filed by Creditor Cedar Glade LP. (Attachments: # <u>1</u> Evidence of Transfer) (Tanabe, Keshia)
02/12/2021	<u>1931</u> Agreed Order granting motion to assume nonresidential real property lease with Crescent TC Investors, L.P. (related document # <u>1624</u>) Entered on 2/12/2021. (Okafor, M.)
02/12/2021	<u>1932</u> Certificate of service re: <i>1) Debtors Notice of Deposition to James Dondero in Connection with Debtors Objection to Proof of Claim Filed by HCRE Partners, LLC; and 2) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to December 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1918</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1919</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to December 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # <u>1</u> Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/13/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] (26.00). Receipt number 28493529, amount \$ 26.00 (re: Doc# <u>1930</u>). (U.S. Treasury)
02/16/2021	<u>1933</u> Agreed Motion to continue hearing on (related documents <u>1826</u> Application for administrative expenses) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Hogewood, A.)
02/16/2021	<u>1934</u> Certificate of service re: <i>Fourteenth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from December 1, 2020 to and Including December 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1927</u> Application for compensation <i>Fourteenth Application of FTI Consulting, Inc. for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 12/31/2020, Fee: \$239,297.76, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 3/3/2021. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
02/17/2021	<u>1935</u> Adversary case 21-03010. Complaint by Highland Capital Management, L.P. against Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Adversary Cover

	Sheet). Nature(s) of suit: 91 (Declaratory judgment). 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 72 (Injunctive relief – other). (Annable, Zachery)
02/17/2021	<u>1936</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>1643</u> Agreed Motion to substitute attorney David Neier with Frances A. Smith, Michelle Hartmann, and Debra A. Dandeneau Filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (Attachments: # 1 Proposed Order)) Responses due by 2/24/2021. (Ecker, C.)
02/17/2021	<u>1937</u> Order granting motion to continue hearing on (related document <u>1933</u>) (related documents Application for administrative expenses) The Status Conference is hereby continued from March 22, 2021 at 9:30 a.m. to to such date and time on or after March 29, 2021 that is determined by the Court. (Okafor, M.) MODIFIED to correct hearing setting on 2/17/2021 (Okafor, M.).
02/18/2021	<u>1938</u> Stipulation by Highland Capital Management, L.P. and The Dugaboy Investment Trust and Get Good Trust. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i>). (Annable, Zachery)
02/18/2021	<u>1939</u> Certificate of service re: <i>Agreed Order on Motion to Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1931</u> Agreed Order granting motion to assume nonresidential real property lease with Crescent TC Investors, L.P. (related document <u>1624</u>) Entered on 2/12/2021. (Okafor, M.)). (Kass, Albert)
02/19/2021	<u>1940</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1842</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 12/31/2020, Fee: \$416,359.08, Expenses:). (Hoffman, Juliana)
02/22/2021	<u>1941</u> Certificate of Counsel filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 1924 Hearing held). (Annable, Zachery)
02/22/2021	<u>1942</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1870</u> Notice of appeal, <u>1889</u> Amended notice of appeal, <u>1899</u> Notice of docketing notice of appeal/record, <u>1900</u> Certificate of mailing regarding appeal, <u>1901</u> Notice regarding the record for a bankruptcy appeal). (Annable, Zachery)
02/22/2021	<u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
02/22/2021	<u>1944</u> Application for compensation <i>Sixteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from January 1, 2021 through January 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 1/1/2021 to 1/31/2021, Fee: \$2,557,604.00, Expenses: \$32,906.65. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 3/15/2021. (Pomerantz, Jeffrey)
02/23/2021	<u>1945</u> Certificate of service re: <i>Stipulation by Highland Capital Management, L.P. and The Dugaboy Investment Trust and Get Good Trust</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1938</u> Stipulation by Highland Capital Management, L.P. and The Dugaboy Investment Trust and Get Good Trust. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i>). filed by Debtor Highland Capital

	Management, L.P.). (Kass, Albert)
02/24/2021	<u>1946</u> Clerk's correspondence requesting from attorney for appellant. (RE: related document(s) <u>1928</u> Amended appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1910</u> Appellant designation).) Responses due by 3/10/2021. (Blanco, J.)
02/24/2021	<u>1947</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B)). Hearing to be held on 3/22/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1878</u> , (Montgomery, Paige)
02/24/2021	<u>1948</u> Notice (<i>Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). (Annable, Zachery)
02/24/2021	<u>1949</u> Debtor-in-possession monthly operating report for filing period December 1, 2020 to December 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/24/2021	<u>1950</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)) No. of Notices: 8. Notice Date 02/24/2021. (Admin.)
02/25/2021	<u>1951</u> Amended appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1942</u> Appellee designation). (Annable, Zachery)
02/25/2021	Receipt of Registry Funds – \$43976.75 by SD. Receipt Number 338805. (admin)
02/25/2021	Receipt of Registry Funds – \$3022.74 by SD. Receipt Number 338806. (admin)
02/25/2021	<u>1952</u> Certificate of service re: <i>Documents Served on February 22, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1941</u> Certificate of Counsel filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 1924 Hearing held). filed by Debtor Highland Capital Management, L.P., <u>1942</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1870</u> Notice of appeal, <u>1889</u> Amended notice of appeal, <u>1899</u> Notice of docketing notice of appeal/record, <u>1900</u> Certificate of mailing regarding appeal, <u>1901</u> Notice regarding the record for a bankruptcy appeal). filed by Debtor Highland Capital Management, L.P., <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.), <u>1944</u> Application for compensation <i>Sixteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from January 1, 2021 through January 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 1/1/2021 to 1/31/2021, Fee: \$2,557,604.00, Expenses: \$32,906.65. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 3/15/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/26/2021	<u>1953</u> Agreed Order granting motion to substitute attorney adding Frances Anne Smith for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, Michelle Hartmann

	for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, Debra A. Dandeneau for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, terminating David Neier. (related document # <u>1643</u>) Entered on 2/26/2021. (Okafor, M.)
02/26/2021	<u>1954</u> Certificate of service re: <i>1) Notice of Hearing on Motion for an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation; and 2) Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1947</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B)). Hearing to be held on 3/22/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1878</u> , filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1948</u> Notice (<i>Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.)). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/28/2021	<u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Rukavina, Davor)
02/28/2021	<u>1956</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1953</u> Agreed Order granting motion to substitute attorney adding Frances Anne Smith for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, Michelle Hartmann for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, Debra A. Dandeneau for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, terminating David Neier. (related document <u>1643</u>) Entered on 2/26/2021. (Okafor, M.)) No. of Notices: 3. Notice Date 02/28/2021. (Admin.)
03/01/2021	<u>1957</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). Appellant Designation due by 03/15/2021. (Attachments: # <u>1</u> Exhibit A)(Rukavina, Davor)
03/01/2021	Receipt of filing fee for Notice of appeal(19–34054–sgj11) [appeal,ntcap] (298.00). Receipt number 28523950, amount \$ 298.00 (re: Doc# <u>1957</u>). (U.S. Treasury)
03/01/2021	<u>1958</u> Motion for expedited hearing(related documents <u>1955</u> Motion to stay pending appeal) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Rukavina, Davor)
03/01/2021	<u>1959</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Action Shred Of Texas (Amount \$3,825.00) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. (Knox, Victor)
03/01/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19–34054–sgj11) [claims,trclmagt] (26.00). Receipt number 28524853, amount \$ 26.00 (re: Doc# <u>1959</u>). (U.S. Treasury)
03/01/2021	<u>1960</u> Order Denying Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c) (related document # <u>1745</u>) Entered on 3/1/2021. (Okafor, M.)
03/01/2021	

	<u>1961</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1853</u> Application for compensation <i>Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 11/30/2020, Fee: \$1.). (Hoffman, Juliana)
03/02/2021	<u>1962</u> Certificate of service re: <i>Appellees Amended Supplemental Designation of Record on Appeal</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1951</u> Amended appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1942</u> Appellee designation). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/02/2021	<u>1963</u> Application for compensation <i>Sidley Austin LLP's 15th Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 1/1/2021 to 1/31/2021, Fee: \$655,724.88, Expenses: \$6,612.00. Filed by Attorney Juliana Hoffman Objections due by 3/23/2021. (Hoffman, Juliana)
03/03/2021	<u>1964</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/03/2021	<u>1965</u> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/03/2021	<u>1966</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). Appellant Designation due by 03/17/2021. (Hogewood, A.)
03/03/2021	<u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Hogewood, A.)
03/03/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] (298.00). Receipt number 28532838, amount \$ 298.00 (re: Doc# <u>1966</u>). (U.S. Treasury)
03/03/2021	<u>1968</u> Application for compensation <i>15th Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2021 to 1/31/2021, Fee: \$244,315.80, Expenses: \$0.00. Filed by Attorney Juliana Hoffman Objections due by 3/24/2021. (Hoffman, Juliana)
03/03/2021	<u>1969</u> Objection to (related document(s): <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party James Dondero. (Assink, Bryan)
03/04/2021	<u>1970</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero. Appellant Designation due by 03/18/2021. (Attachments: # <u>1</u> Exhibit)(Taylor, Clay)
03/04/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] (298.00). Receipt number 28537086, amount \$ 298.00 (re: Doc# <u>1970</u>). (U.S. Treasury)
03/04/2021	<u>1971</u> Joinder by <i>Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # <u>1</u> Exhibit Opinion) (Draper, Douglas)

03/04/2021	<u>1972</u> Notice of appeal <i>Notice of Appeal and Statement of Election</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). Appellant Designation due by 03/18/2021. (Draper, Douglas)
03/04/2021	<u>1973</u> Joinder by filed by Interested Party James Dondero (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Taylor, Clay)
03/04/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcap] (298.00). Receipt number 28537308, amount \$ 298.00 (re: Doc# <u>1972</u>). (U.S. Treasury)
03/04/2021	<u>1974</u> Stipulation by Highland Capital Management, L.P. and the Official Committee of Unsecured Creditors; Highland Capital Management Fund Advisors, L.P.; NexPoint Advisors, L.P.; Highland Income Fund; NexPoint Strategic Opportunities Fund; Highland Global Allocation Fund; NexPoint Capital, Inc.; James Dondero; The Dugaboy Investment Trust; and Get Good Trust. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Annable, Zachery)
03/05/2021	<u>1976</u> Certificate of No Objection Regarding First Monthly Fee Application filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>1925</u> Application for compensation <i>First Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 11/1/2020 to 12/31/2020, Fee: \$73121.04, Expenses: \$10.35.). (Hesse, Gregory)
03/05/2021	<u>1977</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 12 Number of appellee volumes: 13. Civil Case Number: 3:20-CV-03390-X (RE: related document(s) <u>1347</u> Notice of appeal) (Blanco, J.)
03/05/2021	<u>1978</u> Notice of docketing COMPLETE record on appeal. 3:20-CV-03390-X (RE: related document(s) <u>1347</u> Notice of appeal filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). (Blanco, J.)
03/05/2021	<u>1979</u> Order approving stipulation regarding briefing (Re: related document(s) <u>1974</u> Stipulation) and setting hearing (RE: related document(s) <u>1955</u> Motion to stay pending appeal filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund). Hearing to be held on 3/19/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1955</u> and for <u>1967</u> , Entered on 3/5/2021 (Okafor, M.)
03/05/2021	<u>1980</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1927</u> Application for compensation <i>Fourteenth Application of FTI Consulting, Inc. for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 12/31/2020, Fee: \$239,297). (Hoffman, Juliana)

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

In Re: HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-sgj11
UBS Securities LLC, et al	§	
Appellant	§	
vs.	§	
Highland Capital Management, L.P.	§	3:20-CV-03408-G
Appellee	§	

[1273] Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # [1089](#)) Entered on 10/23/2020.

**APPELLANT RECORD
VOLUME 2**

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

-----X
In re: : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

INDEX

**APPELLANTS' AMENDED STATEMENT OF ISSUE AND
DESIGNATION OF RECORD ON APPEAL**

¹ The last four digits of the Debtor's taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Bankruptcy Court, Suite 700, Dallas, TX 75201.

Pursuant to instructions by the Clerk of Court (*see* Docket No. 1458), Appellants UBS Securities LLC and UBS AG, London Branch (together “UBS” or “Appellants”) submit this amended statement of issue and designation of record on appeal in connection with their appeal of the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* (Bankruptcy Case No. 19-34054-sgj11) [Docket No. 1273], dated October 22, 2020 and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020.

I. STATEMENT OF ISSUE TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court err as a matter of law by approving the Debtor’s claim compromise as fair, equitable, and in the best interest of the estate under Federal Rule of Bankruptcy Procedure 9019?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

- Vol. 1*
- 000001*
- 000010*
1. The Notice of Appeal:
- a. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1339);
- b. Amended Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1369).
2. The Judgment, Order, or Decree Appealed from:
- a. Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith (Dkt. 1273).
- 000019*
3. Any Opinion, Findings of Fact, and Conclusions of Law of the Bankruptcy Court:
- To the extent included in or underlying the documents identified in part II.5 herein.
- 000021*
4. The Docket Sheet for Bankruptcy Case No. 19-34054-sgj11.

5. Documents listed below (as described in the Docket Sheet for Bankruptcy Case No.

19-34054-sgj11):

<i>Vol. 2</i>	Date Filed	Docket No.	Description/Docket Text
<i>000301</i>	12/4/2019	1	(2 pgs) Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
<i>000303</i>	12/27/2019	281	(100 pgs; 4 docs) Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) (Hayward, Melissa)
<i>000403</i>	1/9/2020	339	(5 pgs) Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document # 281) Entered on 1/9/2020. (Okafor, M.)
<i>000408</i>	3/2/2020	488	(18 pgs) Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # 421) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
<i>000426</i>	9/21/2020	1079	(61 pgs) Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)944 Chapter 11 plan). (Annable, Zachery)
<i>Vol. 3</i>	9/21/2020	1080	(155 pgs; 3 docs) Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)(Annable, Zachery)
<i>000487</i>	9/23/2020	1089	(26 pgs; 2 docs) Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A--Proposed Order) (Annable, Zachery)
<i>000642</i>	10/15/2020	1173	(11 pgs; 2 docs) Notice (Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1080 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)). (Attachments: # 1 Exhibit C/D to
<i>000668</i>			

Date Filed	Docket No.	Description/Docket Text
		Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/16/2020	1191	(8 pgs) Response opposed to (related document(s): 1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/19/2020	1220	(11 pgs) Reply to (related document(s): 1190 Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/28/2020	1303	(2 pgs) Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 & #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)
10/30/2020	1315	(3 pgs) Order directing UBS' Offer of Proof (RE: related document(s)1089 Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.) ²
6/8/2020	719	SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
6/8/2020	720	SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)

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² This designation includes the underlying documents that UBS submitted to the Bankruptcy Court in hard copy pursuant to this ruling.

	<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
Vol. 4 000823	6/8/2020	721	SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
000824 Thru Vol. 5	8/7/2020	933	(431 pgs; 23 docs) Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page - to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page - to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page - to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page - to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page - to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page - to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page - to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page - to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page - to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page - to be filed under seal upon order from Court)) (Platt, Mark)
Vol. 6 001255	8/26/2020	996	(34 pgs) Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund - Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) (sealed exhibits)
001289	9/23/2020	1090	(94 pgs; 7 docs) Declaration re: (Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) (Annable, Zachery)
001383	10/5/2020	1127	SEALED document regarding: Exhibit B--Cornerstone Monetization Schedule per court order filed by Debtor

Date Filed	Docket No.	Description/Docket Text
		Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1128	SEALED document regarding: Exhibit 2 - Partial Final Award dated March 6, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.).
10/5/2020	1129	SEALED document regarding: Exhibit 3--Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1130	SEALED document regarding: Exhibit 4--Final Award dated April 29, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/16/2020	1190	(42 pgs; 2 docs) Objection to (related document(s): 1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # 1 A-C) (Sosland, Martin)
10/16/2020	1192	(36 pgs; 3 docs) Declaration re: W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)1190 Objection). (Attachments: # 1 Exhibit 1-6 # 2 Attachments A-C) (Sosland, Martin)
7/10/2020	817	Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 812 Hearing held on 7/8/2020. (RE: related document(s)737 Motion to extend or limit the exclusivity period (RE: related document(s)668 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M.

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Date Filed	Docket No.	Description/Docket Text
		Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.), 813 Hearing held on 7/8/2020. (RE: related document(s)747 Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)459 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
8/26/2020	998	Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s)771 Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)

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<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
10/23/2020	1271	Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1256 Hearing held on 10/20/2020. (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), 1257 Hearing held on 10/20/2020. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)

Respectfully submitted,

DATED this 25th day of November 2020.

LATHAM & WATKINS LLP

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CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Appellants' Amended Statement of Issue and Designation of Record on Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 25, 2020.

/s/ Martin Sosland

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	)	Case No. 19-12239 (CSS)
)	
Debtor.	)	Ref. Docket No.: 86
)	

**ORDER TRANSFERRING VENUE OF THIS CASE TO THE UNITED STATES
BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS**

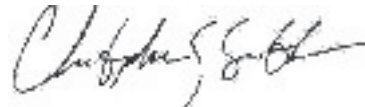
Upon the motion (the “Motion”)² of the Committee requesting entry of an order (this “Order”) transferring the venue of the above-captioned chapter 11 case to the United States Bankruptcy Court for the Northern District of Texas; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue of this Motion being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and adequate notice of, and the

¹ 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.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

opportunity for a hearing on, the Motion having been given; and for the reasons stated on the record, it is HEREBY ORDERED THAT:

1. Effective as of the date of this Order, the above-captioned chapter 11 case shall be transferred to the Dallas Bankruptcy Court pursuant to 28 U.S.C. § 1412.



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Counsel and Proposed Counsel for the Debtor and Debtor in Possession

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	

**MOTION OF THE DEBTOR FOR APPROVAL OF SETTLEMENT
WITH THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS REGARDING
GOVERNANCE OF THE DEBTOR AND
PROCEDURES FOR OPERATIONS IN THE ORDINARY COURSE**

The above-captioned debtor and debtor in possession (the “Debtor”) files this motion (the “Motion”) for the entry of an order (the “Order”) approving the terms of a settlement

¹ 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.

between the Debtor and the Committee (as defined below) regarding governance of the Debtor and procedures for operations in the ordinary course of business, as embodied in the term sheet attached hereto as **Exhibit A** (the “Term Sheet”). In support of this Motion, the Debtor respectfully represents as follows:

Preliminary Statement

1. Following weeks of negotiations, the Debtor and the Committee have reached a proposed settlement, which contemplates the creation of a new independent board of directors (the “Independent Directors”) at Strand Advisors, Inc. (“Strand”), the Debtor’s general partner and ultimate party in control, and the implementation of certain protocols governing the operation of the Debtor’s business in the ordinary course. The Independent Directors will consist of the following three highly qualified and independent individuals: James Seery, John Dubel, and a third director to be selected by or otherwise acceptable to the Committee.² Two of the Independent Directors were chosen by the Committee and the third Independent Director will be selected by or otherwise acceptable to the Committee. Background information for each of the Independent Directors is attached hereto as **Exhibit B**.

2. Pursuant to the Term Sheet, and effective upon entry of the Order, James Dondero will no longer be a director, officer, managing member, or employee of the Debtor or Strand and will have no authority, directly or indirectly, to act on the Debtor’s behalf. Going forward, the Independent Directors, through Strand, will have sole and exclusive management and control of the Debtor. The Independent Directors will have the discretion to appoint an interim

² The Committee’s agreement to the Term Sheet in its entirety is contingent upon the selection of a third Independent Director acceptable to the Committee. In the event the Committee and the Debtor cannot reach an agreement on an acceptable Independent Director to fill the third seat of the Board of Directors, the Term Sheet shall be null and void.

Chief Executive Officer (the “CEO”) who will manage the Debtor’s day-to-day business operations. Subject to Court approval, the Debtor still intends to retain Development Specialists, Inc. (“DSI”) to provide a Chief Restructuring Officer (the “CRO”) that will serve at the direction of the Independent Directors (or CEO, if appointed).

3. It bears emphasis that the Independent Directors will not be mere figureheads. The Debtor and the Committee envision that the Independent Directors will be actively involved and intimately familiar with all material aspects of the Debtor’s business and restructuring efforts. Moreover, with guidance of the CRO and CEO (if appointed), the Independent Directors will endeavor to prevent any negative influence Mr. Dondero or any of his affiliates or agents may have on the Debtor and its employees. Further, as part of the Term Sheet, the Committee will be granted standing to pursue estate claims against Mr. Dondero and other former insiders of the Debtor who were not employed by the Debtor as of the execution of the Term Sheet. The Committee will also retain the right to move for a chapter 11 trustee.

4. In sum, the Term Sheet resolves months of litigation between the Debtor and the Committee over the Debtor’s governance structure and operating protocols, allowing all parties to refocus on a path forward for this chapter 11 case. With the Independent Directors in place, the Debtor can move forward expeditiously, efficiently, and effectively with the substantive aspects of this case and consider any available restructuring options that will maximize value for all constituents. The Debtor therefore urges the Court to approve the Term Sheet and allow the key economic interest holders to proceed with a productive restructuring effort.

Jurisdiction and Venue

5. The United States Bankruptcy Court for the District of Northern District of Texas, Dallas Division (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

6. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The statutory bases for the relief requested herein are sections 105(a) and 363 of the Bankruptcy Code and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

8. 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”).

9. To assist and coordinate the restructuring process, the Debtor retained DSI and Bradley D. Sharp to serve as the CRO on October 7, 2019. On October 29, 2019, the Debtor filed the *Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring Related Services, Nunc Pro Tunc as of the Petition Date* [Docket No. 74] (the “CRO Motion”) seeking to formally retain the CRO. The CRO Motion remains pending, and the Debtor is filing a supplement to the CRO Motion concurrently herewith.

10. On October 29, 2019, the Official Committee of Unsecured Creditors (the “Committee”) was appointed by the U.S. Trustee in the Delaware Court. On November 12, 2019, the Committee filed an omnibus objection to the CRO Motion, cash management motion, and

motion for approval of ordinary course protocols [Docket No. 130] (the “Committee Objection”), raising various concerns regarding the Debtor’s governance and business practices.

11. On December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor’s bankruptcy case to this Court [Docket No. 186].³ The Debtor has continued in the possession of its property and has continued to operate and manage its business as a 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 case.

12. On December 23, 2019, the U.S. Trustee filed a motion in this Court to appoint a chapter 11 trustee for the Debtor [Docket No. 271] (the “Trustee Motion”). Although the Debtor will be filing a separate response to the Trustee Motion, it suffices to say that the Trustee Motion (filed without even considering the proposed Term Sheet) completely lacks merit given the governance changes and other resolutions encompassed in the Term Sheet agreed to by the Committee, as the representative of the primary economic stakeholders here.

Terms of the Proposed Settlement

13. Pursuant to the Term Sheet, the Debtor and the Committee have agreed to: (a) implement certain changes to the Debtor’s governance, including the appointment of the Independent Directors; (b) provide the Committee with additional transparency into the operation of the Debtor’s business; (c) retain the CRO on updated terms; and (d) implement certain protocols governing the ordinary course business operations of the Debtor. The terms of this agreement are contained in the Term Sheet.⁴ A summary of the Term Sheet is as follows:

³ All docket numbers refer to the docket maintained by this Court.

⁴ In the event of any inconsistency between the summary of the Term Sheet contained herein and the Term Sheet, the Term Sheet will govern.

Independent Directors

The Debtor's general partner, Strand will appoint the following three (3) Independent Directors: James Seery, John Dubel, and a third director to be selected by or otherwise acceptable to the Committee. The Independent Directors will be granted exclusive control over the Debtor and its operations. Among other things, the Independent Directors shall conduct a review of all current employees as soon as practicable following the Independent Directors' appointment, determine whether and which employees should be subject to a key employee retention plan and/or key employee incentive plan and, if applicable, propose plan(s) covering such employees. The appointment and powers of the Independent Directors and the corporate governance structure shall be pursuant to the documents attached to the Term Sheet (the "Governing Documents"), which documents shall be satisfactory to the Committee. Once appointed, the Independent Directors (i) cannot be removed without the Committee's written consent or Order of the Court, and (ii) may be removed and replaced at the Committee's direction upon approval of the Court (subject in all respects to the right of any party in interest, including the Debtor and the Independent Directors, to object to such removal and replacement).

The Independent Directors shall be compensated in a manner to be determined, with an understanding that the source of funding, whether directly or via reimbursement, will be the Debtor.

As soon as practicable after their appointments, the Independent Directors shall, in consultation with the Committee, determine whether a CEO should be appointed for the Debtor. If the Independent Directors determine that appointment of a CEO is appropriate, the Independent Directors shall appoint a CEO acceptable to the Committee as soon as practicable, which may be one of the Independent Directors. Once appointed, the CEO cannot be removed without the Committee's written consent or Order of the Court.

The Committee shall have regular, direct access to the Independent Directors, provided, however that (1) if the communications include FTI Consulting Inc. ("FTI"), Development Specialists Inc. ("DSI") shall also

participate in such communications; and (2) if the communications include counsel, then either Debtor's counsel or, if retained, counsel to the Independent Directors shall also participate in such communications.

Role of Mr. James Dondero

Upon approval of the Term Sheet by the Bankruptcy Court, Mr. Dondero will (1) resign from his position as a Board of Director of Strand Advisors, Inc., (2) resign as an officer of Strand Advisors, Inc., and (3) resign as an employee of the Debtor.

CRO

Bradley Sharp and DSI shall, subject to approval of the Court, be retained as the CRO to the Debtor and report to and be directed by the Independent Directors and, if and once appointed, the CEO. Mr. Sharp's and DSI's retention is subject to this Court's approval. The Debtor has filed the CRO Motion, as supplemented as of the date hereof, which requests authority to retain Mr. Sharp and DSI.⁵

DSI and all other Debtor professionals shall serve at the direction of the CEO, if any, and the Independent Directors.

Estate Claims

The Committee is granted standing to pursue any and all estate claims and causes of action against Mr. Dondero, Mr. Mark Okada, other insiders of the Debtor, and each of the Related Entities, including any promissory notes held by any of the foregoing (collectively, the "Estate Claims"); provided, however, that the term Estate Claims will not include any estate claim or cause of action against any then-current employee of the Debtor.

**Document Management,
Preservation, and Production**

The Debtor shall be subject to and comply with the document management, preservation, and production requirements attached to the Term Sheet, which requirements cannot be modified without the consent of the Committee or Court order (the "Document Production Protocol").

Solely with respect to the investigation and pursuit of Estate Claims, the document production protocol will acknowledge that the Committee will have access to the privileged documents and communications that are

⁵ For the avoidance of doubt, the Debtor is not seeking retention of the CRO pursuant to this Motion. The Debtor is seeking such relief pursuant to the CRO Motion (as supplemented).

within the Debtor's possession, custody, or control ("Shared Privilege").

With respect to determining if any particular document is subject to the Shared Privilege, the following process shall be followed: (i) the Committee will request documents from the Debtor, (ii) the Debtor shall log all documents requested but withheld on the basis of privilege, (iii) the Debtor shall not withhold documents it understands to be subject to the Shared Privilege; (iv) the Committee will identify each additional document on the log that the Committee believes is subject to the Shared Privilege, and (v) a special master or other third party neutral agreed to by the Committee and the Debtor shall make a determination if such documents are subject to the Shared Privilege. The Committee further agrees that the production of any particular document by the Debtor under this process will not be used as a basis for a claim of subject matter waiver.

Reporting Requirements

The Debtor shall be subject to and comply with the reporting requirements attached to the Term Sheet, which reporting requirements cannot be modified without the consent of the Committee or Court order (the "Reporting Requirements").

Plan Exclusivity

The Independent Directors may elect to waive the Debtor's exclusive right to file a plan under section 1121 of the Bankruptcy Code.

Operating Protocols

The Debtor shall comply with the operating protocols attached to the Term Sheet, regarding the Debtor's operation in the ordinary course of business, which protocols cannot be modified without the consent of the Committee or Court order (the "Operating Protocols" and, together with the Reporting Requirements, the "Protocols").

14. By this Motion, the Debtor is seeking the Court's approval of the Term Sheet, the terms contained therein, and the exhibits attached thereto. For the avoidance of doubt, approval of the Term Sheet includes the approval of the following:

- Independent Directors: The appointment of James Seery, John Dubel, and a third director to be selected by or otherwise acceptable to the Committee as the Independent Directors of Strand, the Debtor's general partner, with power to oversee the operations of the Debtor as set forth in the Term Sheet. Mr. Seery and Mr. Dubel were selected by the Committee, and the Debtor agreed to their appointment as Independent Directors. The Debtor is also seeking approval of the Governing Documents appointing the Independent Directors, to the extent required, and the authority to compensate the Independent Directors either directly from the assets of the Debtor or via the reimbursement of Strand of any compensation paid to the Independent Directors.

- Document Management and Preservation: The implementation of the Document Production Protocol, which will govern how the Debtor retains and produces documents and information to the Committee during the pendency of its bankruptcy case. The Debtor is also agreeing to allow the Committee to access certain documents that are otherwise subject to the Shared Privilege to assist the Debtor in investigating the Estate Claims.

- Estate Claims. The Debtor has agreed to grant the Committee standing to pursue any Estate Claims. Estate Claims do not include claims or causes of action against any current employees of the Debtor; however, if any employee ceases to be employed by the Debtor, the Committee will have standing to pursue claims against such former employee.

- Reporting Requirements and Operating Protocols: The Debtor has agreed to provide certain reporting to the Committee and to operate under certain protocols, which set forth the parameters of how the Debtor can conduct its business without the requirement of Court approval. The Protocols provide, in certain circumstances, how the CRO and the Independent Directors will oversee the Debtor's operations. The purpose of the Protocols is to allow the Debtor to function in the ordinary course of its business while providing transparency to the Committee.

15. The Debtor believes that appointing the Independent Directors and otherwise effectuating the terms of the Term Sheet is in the best interests of the Debtor, its estate, and its creditors. The Term Sheet will allow the Debtor to proceed with a productive reorganization effort that will maximize value for all constituents. Accordingly, the Debtor seeks approval of the Term Sheet.

Relief Requested

16. By this Motion, the Debtor seeks entry of an order pursuant to sections 105(a), 363(b)(1), and 363(c)(1) of the Bankruptcy Code and Bankruptcy Rule 9019: (a) approving the Debtor's settlement with the Committee as set forth in the Term Sheet and outlined herein; (b)

authorizing the Debtor to take any action as may be reasonably required to effectuate the terms of the Term Sheet, including entering into the Governing Documents and compensating – either directly or through reimbursement – the Independent Directors; (c) granting the Committee standing to pursue the Estate Claims; and (d) granting related relief.

Authority for the Relief Requested

A. Section 363(c)(1) of the Bankruptcy Code Authorizes the Debtor to Enter Into Certain Aspects of the Term Sheet in the Ordinary Course

17. Because the Debtor is not settling any claims or causes of action through the Term Sheet or otherwise expending estate resources, the Debtor believes that it has the authority to effectuate the majority of the transactions and compromises set forth in the Term Sheet without Court approval under section 363(c)(1) of the Bankruptcy Code. Specifically, section 363(c)(1) provides:

[i]f the business of the debtor is authorized to be operated under section. . . 1108. . . of this title. . . the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

11 U.S.C. § 363(c)(1). As such, a debtor may engage in postpetition actions if the debtor is authorized to operate its business under section 1108 and such transactions are “in the ordinary course of business.”

18. An activity is “ordinary course” if it satisfies both the “horizontal test” and the “vertical test.” *See, e.g., Denton Cty. Elec. Coop. v. Eldorado Ranch, Ltd. (In re Denton Cty. Elec. Coop.)*, 281 B.R. 876, 882 n.12 (Bankr. N.D. Tex. 2002); *see also In re Roth American, Inc.*, 975 F.2d 949, 952 (3d Cir. 1992). The vertical test looks to “whether the transaction subjects a

hypothetical creditor to a different economic risk than existed when the creditor originally extended credit.” *In re Patriot Place, Ltd.*, 486 B.R. 773, 793 (Bankr. W.D. Tex. 2013). The horizontal test considers “whether the transaction was of the sort commonly undertaken by companies in the industry.” *Id.* Here, both the vertical test and horizontal test are satisfied.

19. Under the Term Sheet, the Debtor is seeking authority to (a) appoint the Independent Directors at Strand (a non-debtor entity), (b) have Mr. Dondero removed from his role at the Debtor and Strand; (c) agree to seek the retention of the CRO under a revised engagement letter that provides that the CRO will report to the Independent Directors; (d) grant the Committee standing to pursue the Estate Claims; (e) enter into and implement the Document Production Protocols; (f) grant the Independent Directors the exclusive right to determine whether to waive exclusivity; and (g) enter into and implement the Protocols. Only the compensation of the Independent Directors, the entrance into the Protocols (which provide the Committee with certain right to object to the Debtor engaging in a “Transaction” (as defined in the Protocols) and allow the Debtor to seek a hearing before this Court on an expedited basis), and the grant of standing to the Committee to pursue Estate Claims could be construed as outside of the ordinary course of business. The balance of the terms of the Term Sheet either involve non-debtors⁶ or will be the subject of separate motions seeking Court approval at the appropriate time.

B. The Court Should Approve the Term Sheet Under Rule 9019 of the Bankruptcy Code

20. Although the Debtor believes that it has authority to implement the majority of the Term Sheet in the ordinary course of its business under section 363(c), the Debtor is seeking

⁶ With respect to the Independent Directors, they are being appointed to a new independent board of Strand, the Debtor’s general partner, and Strand is not a debtor in this case or subject to this Court’s jurisdiction.

this Court’s approval of the Term Sheet under section 105 of the Bankruptcy Code and Rule 9019 of the Bankruptcy Rules out of an abundance of caution. Section 105(a) of the Bankruptcy Code provides in relevant part that “[t]he court may 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). Section 105(a) has been interpreted to expressly empower bankruptcy courts with broad equitable powers to “craft flexible remedies that, while not expressly authorized by the Code, effect the result the Code was designed to obtain.” *Official Comm. of Unsecured Creditors of Cybergenics Corp. ex rel. Cybergenics Corp. v. Chinery*, 330 F.3d 548, 568 (3d Cir. 2003) (en banc); *see also Southmark Corp. v. Grosz (In re Southmark Corp.)*, 49 F.3d 1111, 1116 (5th Cir. 1995) (stating that section 105(a) of the Bankruptcy Code “authorizes bankruptcy courts to fashion such orders as are necessary to further the substantive provisions of the Code”).

21. Bankruptcy Rule 9019 governs the procedural prerequisites to approval of a settlement, providing that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

Fed. R. Bankr. P. 9019(a).

22. Settlements in bankruptcy are favored as a means of minimizing litigation, expediting the administration of the bankruptcy estate, and providing for the efficient resolution of bankruptcy cases. *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996); *see also Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 602 (5th Cir. 1980). Pursuant to Bankruptcy Rule 9019(a), a bankruptcy court may, after appropriate notice and a hearing, approve

a compromise or settlement so long as the proposed settlement is fair, reasonable, and in the best interest of the estate. *See In re Age Ref. Inc.*, 801 F.3d 530, 540 (5th Cir. 2015). Ultimately, “approval of a compromise is within the sound discretion of the bankruptcy court.” *See United States v. AWECO, Inc. (In re AWECO, Inc.)*, 725 F.2d 293, 297 (5th Cir. 1984); *Jackson Brewing*, 624 F.2d at 602–03.

23. In making this determination, the United States Court of Appeals for the Fifth Circuit applies a three-party test, “with a focus on comparing ‘the terms of the compromise with the rewards of litigation.’” *Official Committee of Unsecured Creditors v. Cajun Elec. Power Coop. by & through Mabey (In re Cajun Elec. Power Coop.)*, 119 F. 3d 349, 356 (5th Cir. 1997) (citing *Jackson Brewing*, 624 F.2d at 602). The Fifth Circuit has instructed courts to consider the following factors: “(1) The probability of success in the litigation, with due consideration for the uncertainty of law and fact, (2) The complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and (3) All other factors bearing on the wisdom of the compromise.” *Id.*

24. Under the rubric of the third factor referenced above, the Fifth Circuit has specified two additional factors that bear on the decision to approve a proposed settlement. First, the court should consider “the paramount interest of creditors with proper deference to their reasonable views.” *Id.*; *Conn. Gen. Life Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortg. Corp.)*, 68 F.3d 914, 917 (5th Cir. 1995). Second, the court should consider the “extent to which the settlement is truly the product of arms-length bargaining, and not of fraud or collusion.” *Age Ref. Inc.*, 801 F.3d at 540; *Foster Mortg. Corp.*, 68 F.3d at 918 (citations omitted).

25. Here, the Debtor submits that effectuating the transactions set forth in the Term Sheet satisfies the Fifth Circuit's three-part test. The settlement embodied in the Term Sheet was driven in large part by the Debtor's creditors and has the support of the Committee, which consists of the Debtor's principal creditors. The Term Sheet was negotiated at arm's length, and there was no fraud or collusion in its negotiation. The settlement is also fair and reasonable and in the best interests of the Debtor's estate and also resolves the open disputes regarding the CRO Motion, the *Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver*, as supplemented [Docket Nos. 51 & 259], and *Precautionary Motion of the Debtor for Order Approving Protocols for the Debtor to Implement Certain Transactions in the Ordinary Course of Business* [Docket No. 76].

26. The Debtor and members of the Committee have been entangled in highly contentious litigation that has spanned many years and multiple venues. As evidenced by the brief history of the Debtor's bankruptcy case,⁷ that contention and mistrust has carried over into this proceeding and could derail any chance that the Debtor has to successfully reorganize and structure a plan to pay its creditors. The governance and operational changes set forth in the Term Sheet, will provide greater transparency to the Committee and start the process of rebuilding the trust necessary to negotiate a successful resolution of this case. Without the Term Sheet, the Debtor

⁷ See, e.g., *Declaration of Frank Waterhouse in Support of First Day Motions* [Docket No. 11], *Motion of the Official Committee of Unsecured Creditors for an Order Transferring Venue of this Case to the United States Bankruptcy Court for the Northern District of Texas* [Docket No. 85], *Omnibus Objection of the Official Committee of Unsecured Creditors to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officers, and (III) Precautionary Motion for Approval of Protocol for "Ordinary Course" Transactions* [Docket No. 130], and *United States Trustee's Motion for an Order Directing the Appointment of a Chapter 11 Trustee* [Docket No. 271].

anticipates that the Committee would move to appoint a chapter 11 trustee and the U.S. Trustee has already done so (without even seeing the Term Sheet). The Debtor will contest such motions because the appointment of a chapter 11 trustee could gravely harm the Debtor's business. The implementation of the Term Sheet will head off any potential issues that could arise, eliminate costly, time consuming and uncertain litigation, and give the Debtor sufficient breathing room to work towards rebuilding trust with its creditor body and allow the Debtor to exit bankruptcy and preserve the value of its business. The Debtor's bankruptcy case has been pending for over two and a half months, and it is time for the parties to put the acrimony that marked the initial stages of this case behind them and to move forward in a productive manner – precisely what the Term Sheet seeks to accomplish.

C. Consummating the Settlement Agreement is a Sound Exercise of the Debtors' Business Judgment.

27. Section 363(b)(1) of the Bankruptcy Code authorizes a debtor in possession to “use, sell, or lease, other than in the ordinary course of business, property of the estate,” after notice and a hearing. It is well established in this jurisdiction that a debtor may use property of the estate outside the ordinary course of business under this provision if there is a good business reason for doing so. *See, e.g., ASARCO, Inc. v. Elliott Mgmt. (In re ASARCO, L.L.C.)*, 650 F.3d 593, 601 (5th Cir. 2011) (“[F]or the debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors, and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.”) (*quoting In re Cont'l Air Lines, Inc.*, 780 F.3d 1223, 1226 (5th Cir. 1986)); 441 B.R. 813, 830 (Bankr. S.D. Tex.

2010); *GBL Holding Co., Inc. v. Blackburn/Travis/Cole, Ltd. (In re State Park Bldg. Grp., Ltd.)*, 331 B.R. 251, 254 (Bankr. N.D. Tex. 2005).

28. The transactions contemplated by the Term Sheet are within the sound business judgment of the Debtor. The Term Sheet resolves potentially costly and protracted litigation with the Committee over the Debtor's corporate governance and will give the Debtor the breathing room necessary to negotiate and effectuate the terms of a plan acceptable to the Debtor's creditors. Further, providing standing to the Committee to investigate Estate Claims and the payment of the Independent Directors from the assets of the estate are each necessary components of the Term Sheet. The Committee would not have agreed to the Term Sheet without the grant of standing to investigate Estate Claims. Moreover, Strand, a non-debtor, is unable to cover the costs of the Independent Directors. As such, there is a good business reason for the Debtor's payment of the Independent Directors' compensation: the Term Sheet and the appointment of the Independent Directors would not have been agreed to or possible without that condition.⁸ The foregoing is sufficient grounds to approve the Term Sheet and authorize the Debtor to effectuate the terms of the Term Sheet under Section 363(b)(1).

No Prior Request

29. No previous request for the relief sought herein has been made to this, or any other, Court.

⁸ Further, although the Debtor seeks to reimburse Strand for the cost of the Independent Directors, the Debtor is otherwise obligated to reimburse Strand for any costs or expenses incurred by Strand in its management of the Debtor. See Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., § 3.10(b).

Notice

30. Notice of this Motion shall be given to the following parties or, in lieu thereof, to their counsel, if known: (a) the Office of the United States Trustee; (b) the Office of the United States Attorney for the Northern District of Texas; (c) the Debtor's principal secured parties; (d) counsel to the Committee; and (e) parties requesting notice pursuant to Bankruptcy Rule 2002. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, for the reasons set forth herein, the Debtor respectfully requests that the Court enter an Order, substantially in the form attached hereto as **Exhibit C**, (a) approving the Debtor's settlement with the Committee as set forth in the Term Sheet and outlined herein; (b) authorizing the Debtor to take any action as may be reasonably required to effectuate the terms of the Term Sheet, including entering into the Governing Documents and compensating – either directly or through reimbursement – the Independent Directors; and (c) granting related relief.

Dated: December 27, 2019

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Highland Capital Management, L.P.

Preliminary Term Sheet

This term sheet (“Term Sheet”) outlines the principal terms of a proposed settlement between Highland Capital Management, L.P. (the “Debtor”) and the Official Committee of Unsecured Creditors (the “Committee”) in the chapter 11 case captioned In re Highland Capital Mgm’t, L.P, Case No. 19-34054 (SGJ) (the “Chapter 11 Case”), pending in the Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”), to resolve a good faith dispute between the parties related to the Debtor’s corporate governance, and specifically, the Committee’s various objections to certain relief being sought by the Debtors in the Chapter 11 Case [Del. Docket No. 125]. This Term Sheet shall be subject to approval by the Bankruptcy Court.

Topic	Proposed Terms
Parties	Highland Capital Management, L.P. (the “ <u>Debtor</u> ”). The Official Committee of Unsecured Creditors of Highland Capital Management, L.P. (the “ <u>Committee</u> ”).
Independent Directors	The Debtor’s general partner, Strand Advisors, Inc., will appoint the following three (3) independent directors (the “ <u>Independent Directors</u> ”): James Seery, John Dubel, and a third director to be selected by or otherwise acceptable to the Committee. The Independent Directors will be granted exclusive control over the Debtor and its operations. Among other things, the Independent Directors shall conduct a review of all current employees as soon as practicable following the Independent Directors’ appointment, determine whether and which employees should be subject to a key employee retention plan and/or key employee incentive plan and, if applicable, propose plan(s) covering such employees. The appointment and powers of the Independent Directors and the corporate governance structure shall be pursuant to the documents attached hereto as <u>Exhibit A</u> , which documents shall be satisfactory to the Committee. Once appointed, the Independent Directors (i) cannot be removed without the Committee’s written consent or Order of the Court, and (ii) may be removed and replaced at the Committee’s direction upon approval of the Court (subject in all respects to the right of any party in interest, including the Debtor and the Independent Directors, to object to such removal and replacement). The Independent Directors shall be compensated in a manner to be determined with an understanding that the

	<p>source of funding, whether directly or via reimbursement, will be the Debtor.</p> <p>As soon as practicable after their appointments, the Independent Directors shall, in consultation with the Committee, determine whether an interim Chief Executive Officer (the “<u>CEO</u>”) should be appointed for the Debtor. If the Independent Directors determine that appointment of a CEO is appropriate, the Independent Directors shall appoint a CEO acceptable to the Committee as soon as practicable, which may be one of the Independent Directors. Once appointed, the CEO cannot be removed without the Committee’s written consent or Order of the Court.</p> <p>The Committee shall have regular, direct access to the Independent Directors, <u>provided, however</u> that (1) if the communications include FTI Consulting Inc. (“<u>FTI</u>”), Development Specialists Inc. (“<u>DSI</u>”) shall also participate in such communications; and (2) if the communications include counsel, then either Debtor’s counsel or, if retained, counsel to the Independent Directors shall also participate in such communications.</p>
<p>Role of Mr. James Dondero</p>	<p>Upon approval of this Term Sheet by the Bankruptcy Court, Mr. Dondero will (1) resign from his position as a Board of Director of Strand Advisors, Inc., (2) resign as an officer of Strand Advisors, Inc., and (3) resign as an employee of the Debtor.</p>
<p>CRO</p>	<p>DSI shall, subject to approval of the Bankruptcy Court, be retained as chief restructuring officer (“<u>CRO</u>”) to the Debtor and report to and be directed by the Independent Directors and, if and once appointed, the CEO. The retention and scope of duties of DSI shall be pursuant to the Further Amended Retention Agreement, attached hereto as <u>Exhibit B</u>.</p> <p>DSI and all other Debtor professionals shall serve at the direction of the CEO, if any, and the Independent Directors.</p>
<p>Estate Claims</p>	<p>The Committee is granted standing to pursue any and all estate claims and causes of action against Mr. Dondero, Mr. Okada, other insiders of the Debtor, and each of the Related Entities, including any promissory notes held by any of the foregoing (collectively, the “<u>Estate Claims</u>”); provided, however, that the term Estate Claims will not</p>

	include any estate claim or cause of action against any then-current employee of the Debtor.
Document Management, Preservation, and Production	<p>The Debtor shall be subject to and comply with the document management, preservation, and production requirements attached hereto as Exhibit C, which requirements cannot be modified without the consent of the Committee or Court order (the “<u>Document Production Protocol</u>”).</p> <p>Solely with respect to the investigation and pursuit of Estate Claims, the document production protocol will acknowledge that the Committee will have access to the privileged documents and communications that are within the Debtor’s possession, custody, or control (“<u>Shared Privilege</u>”).</p> <p>With respect to determining if any particular document is subject to the Shared Privilege, the following process shall be followed: (i) the Committee will request documents from the Debtor, (ii) the Debtor shall log all documents requested but withheld on the basis of privilege, (iii) the Debtor shall not withhold documents it understands to be subject to the Shared Privilege; (iv) the Committee will identify each additional document on the log that the Committee believes is subject to the Shared Privilege, and (v) a special master or other third party neutral agreed to by the Committee and the Debtor shall make a determination if such documents are subject to the Shared Privilege. The Committee further agrees that the production of any particular document by the Debtor under this process will not be used as a basis for a claim of subject matter waiver.</p>
Reporting Requirements	The Debtor shall be subject to and comply with the reporting requirements attached hereto as Exhibit D , which reporting requirements cannot be modified without the consent of the Committee or Court order (the “ <u>Reporting Requirements</u> ”).
Plan Exclusivity	The Independent Directors may elect to waive the Debtor’s exclusive right to file a plan under section 1121 of the Bankruptcy Code.
Operating Protocols	The Debtor shall comply with the operating protocols set forth in Exhibit D hereto, regarding the Debtor’s operation in the ordinary course of business, which protocols cannot be modified without the consent of the Committee or Court order.

Reservation of Rights	This agreement is without prejudice to the Committee's rights to, among other things, seek the appointment of a trustee or examiner at a later date. Nothing herein shall constitute or be construed as a waiver of any right of the Debtor or any other party in interest to contest the appointment of a trustee or examiner, and all such rights are expressly reserved.
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Exhibit A

Debtor's Corporate Governance Documents

Exhibit B

Amended DSI Retention Letter

Exhibit C

Document Production Protocol

*PSZJ Revisions 12/23/19
Privileged & Confidential
Subject to FRE 408*

Exhibit D

Reporting Requirements

WRITTEN CONSENT OF SOLE STOCKHOLDER AND DIRECTOR

OF

STRAND ADVISORS, INC.

[____]

Pursuant to the provisions of the General Corporation Law of the State of Delaware (the “DGCL”) and consistent with the provisions of the Certificate of Incorporation (the “Certificate”) and Bylaws (the “Bylaws”) of Strand Advisors, Inc., a Delaware corporation (the “Company”), the undersigned, being the holder of all of the issued and outstanding shares of common stock, par value \$0.01 per share, of the Company and the sole director of the Company (the “Stockholder”), acting by written consent without a meeting pursuant to Section 228 of the DGCL and Article IV, Section 6, and Article XII of the Bylaws, does hereby consent to the adoption of the following resolutions and to the taking of the actions contemplated thereby, in each case with the same force and effect as if presented to and adopted at a meeting of the stockholders:

I. AMENDMENT OF BYLAWS

WHEREAS, it is acknowledged that the Board of Directors of the Company (the “Board”) has heretofore been fixed at one (1) and that the Board currently consists of James Dondero;

WHEREAS, pursuant to Article XII of the Bylaws, the Stockholder wishes to amend the Bylaws in the manner set forth on **Appendix A** hereto (the “Bylaws Amendment”) to increase the size of the Board from one (1) to three (3) directors; and

NOW, THEREFORE, BE IT RESOLVED, that the Bylaws Amendment is hereby authorized and approved and the Board is increased from one (1) to three (3) directors;

RESOLVED FURTHER, that any officer of the Company is authorized to take any such actions as may be required to effectuate the Bylaws Amendment; and

RESOLVED FURTHER, that any action taken by any officer of the Company on or prior to the date hereof to effectuate such Bylaws Amendment is hereby authorized and affirmed.

II. ELECTION OF DIRECTORS

WHEREAS, the Stockholder desires to appoint James Seery, John Dubel, and _____ to the Board and desires that such individuals constitute the whole Board;

NOW, THEREFORE, BE IT RESOLVED, that James Seery, John Dubel, and _____, having consented to act as such, be, and each of them hereby is, appointed as a director, to serve as a director of the Company and to hold such office until such director’s respective successor shall have been duly elected or appointed and shall qualify, or until such director’s death, resignation or removal;

RESOLVED FURTHER, that any officer of the Company is authorized to take any such actions as

may be required to effectuate the appointment of the foregoing directors, including executing an indemnification agreement in favor of such directors in substantially the form attached hereto as **Appendix B** (each, an “Indemnification Agreement”);

RESOLVED FURTHER, that any action taken by any officer of the Company on or prior to the date hereof to effectuate the appointment of such directors, including the execution of an Indemnification Agreement, is hereby authorized and affirmed.

RESOLVED FURTHER, that James Dondero and any other directors of the Company are hereby removed as directors of the Company;

RESOLVED FURTHER, that the directors appointed pursuant to these resolutions shall, pursuant to the terms of the Bylaws, appoint a Chairman of the Board.

III. STIPULATION WITH THE BANKRUPTCY COURT

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. (“HCMLP”) filed for chapter 11 bankruptcy protection in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Bankruptcy Case”);

WHEREAS, the Company is the general partner for HCMLP;

WHEREAS, the Bankruptcy Case was transferred to the Bankruptcy Court for the Northern District of Texas, Case No. 19-34054-sgj11 (the “Texas Court”) by order of the Bankruptcy Court for the District of Delaware on December 4, 2019;

WHEREAS, the Company and the Stockholder wish to enter into a stipulation with HCMLP and the Official Unsecured Creditors Committee appointed in the Bankruptcy Case (the “Committee”), such stipulation to be approved by the Texas Court, whereby the Stockholder will agree (a) not to transfer or assign his shares in the Company or exercise the voting power of such shares to remove any member of the Board appointed pursuant to these resolutions or further change the authorized number of directors from three (3) directors; (b) to exercise the voting power of his shares so as to cause each member of the Board appointed by this resolutions to be re-elected at upon the expiration of his or her term; and (c) upon the death, disability, or resignation of _____, will exercise the voting power of such shares so as to cause the resulting vacancy to be filled by a successor that is both independent and acceptable to the Stockholder and the Committee (the “Stipulation”);

WHEREAS, for purposes of the Stipulation, “independent” would exclude the Stockholder, any affiliate of the Stockholder, and any member of management of the Company; and

WHEREAS, it is in the intent of the parties that the Stipulation will no longer be effective or bind Strand or the Stockholder following the termination of the Bankruptcy Case.

NOW, THEREFORE, BE IT RESOLVED, that the Company is authorized to take such actions as may be necessary to enter into and effectuate the Stipulation in the manner and on the terms set forth above, including, but not limited to, further amending the Certificate, Bylaws, or any other corporate governance documents; and

RESOLVED FURTHER, that Scott Ellington, as an officer of the Company, is authorized to take any such actions as may be required to enter into and effectuate the Stipulation in the manner set forth herein; and

RESOLVED FURTHER, that any action taken by Scott Ellington or any other officer of the Company on or prior to the date hereof to effectuate such Stipulation is hereby authorized and affirmed.

[Signature pages follow.]

IN WITNESS WHEREOF, the undersigned has executed this Written Consent as of the respective date and year first appearing above.

STOCKHOLDER:

James Dondero

[Signature Page to Written Consent of Sole Stockholder of Strand Advisors, Inc.]

**First Amendment to Bylaws of
Strand Advisors, Inc.**

Strand Advisors, Inc. (the “Company”), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify that the Company’s sole stockholder, acting by written consent without a meeting, resolved to amend the Company’s Bylaws (the “Bylaws”) as follows:

1. Article III, Section 2, of the Bylaws is hereby deleted in its entirety and replaced with the following:

Section 2. Number of Directors. The number of directors which shall constitute the whole Board shall be three (3).

2. The following shall be added as Section 6 to Article III of the Bylaws:

Section 6. Director Qualifications. Each director appointed to serve on the Board shall (A) (i) be an independent director, (ii) not be affiliated with the corporation’s stockholders, and (iii) not be an officer of the corporation; and (B) have been (x) nominated by the stockholders, (y) a retired bankruptcy judge and nominated jointly by the stockholders and any official committee of unsecured creditors in the chapter 11 bankruptcy of Highland Capital Management, L.P. (the “Committee”) currently pending in the Bankruptcy Court for the Northern District of Texas (the “Court”), Case No. 19-34054-sgj11; or (z) nominated by the Committee and reasonably acceptable to the stockholders.

3. The following shall be added as Section 7 to Article III of the Bylaws:

Section 7. Removal of Directors. Once appointed, the Independent Directors (i) cannot be removed without the Committee’s written consent or Order of the Court, and (ii) may be removed and replaced at the Committee’s direction upon approval of the Court (subject in all respects to the right of any party in interest, including the Debtor and the Independent Directors, to object to such removal and replacement).

Except as expressly amended hereby, the terms of the Company’s Bylaws shall remain in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this amendment to be signed this [__] day of [__], 20__.

STRAND ADVISORS, INC.

By: Scott Ellington
Its: Secretary

[_____]

[NAME]
[ADDRESS]
[ADDRESS]
[ADDRESS]

Re: Strand Advisors, Inc. – Director Agreement

Dear [REDACTED]:

On behalf of Strand Advisors, Inc. (the “Company”), I am pleased to have you join the Company’s Board of Directors. This letter sets forth the terms of the Director Agreement (the “Agreement”) that the Company is offering to you.

1. APPOINTMENT TO THE BOARD OF DIRECTORS.

a. Title, Term and Responsibilities.

i. Subject to terms set forth herein, the Company agrees to appoint you to serve as a Director on the Company’s Board of Directors (the “Board”), and you hereby accept such appointment the date you sign this Agreement (the “Effective Date”). You will serve as a Director of the Board from the Effective Date until you voluntarily resign, are removed from the Board, or are not re-elected (the “Term”). Your rights, duties and obligations as a Director shall be governed by the Certificate of Incorporation and Bylaws of the Company, each as amended from time to time (collectively, the “Governing Documents”), except that where the Governing Documents conflict with this Agreement, this Agreement shall control.

ii. You acknowledge and understand that the Company is the general partner of Highland Capital Management, L.P. (“HCMLP”) and that HCMLP is currently the debtor in possession in a chapter 11 bankruptcy proceeding pending in the Northern District of Texas (the “Bankruptcy”). Your rights, duties, and obligations may in certain instances require your involvement, either directly or indirectly, in the Bankruptcy and such rights, duties, and obligations may be impacted in whole or in part by the Bankruptcy.

b. Mandatory Board Meeting Attendance. As a Director, you agree to apply all reasonable efforts to attend each regular meeting of the Board and no fewer than fifty percent (50%) of these meetings of the Board in person, and no more than fifty percent (50%) of such meetings by telephone or teleconference. You also agree to devote sufficient time to matters that may arise at the Company from time to time that require your attention as a Director.

c. Independent Contractor. Under this Agreement, your relationship with the Company will be that of an independent contractor as you will not be an employee of the Company nor eligible to participate in regular employee benefit and compensation plans of the Company.

d. Information Provided by the Companies. The Company shall: (i) provide you with reasonable access to management and other representatives of the Company, except to the extent that any such access may impair any attorney client privilege to which the Company may be entitled; and (ii) furnish all data, material, and other information concerning the business, assets, liabilities, operations, cash flows,

properties, financial condition and prospects of the Company that you reasonably request in connection with the services to be provided to the Company. You will rely, without further independent verification, on the accuracy and completeness of all publicly available information and information that is furnished by or on behalf of the Company and otherwise reviewed by you in connection with the services performed for the Company. The Company acknowledges and agrees that you are not responsible for the accuracy or completeness of such information and shall not be responsible for any inaccuracies or omissions therein, provided that if you become aware of material inaccuracies or errors in any such information you shall promptly notify the Board of such errors, inaccuracies or concerns. You are under no obligation to update data submitted to you or to review any other information unless specifically requested by the Board to do so.

2. COMPENSATION AND BENEFITS.

a. Retainer. The Company will pay you a retainer for each month you serve on the Board (the “Retainer”) to be paid in monthly installments of \$[TBD]. The Company’s obligation to pay the Retainer will cease upon the termination of the Term.

b. Expense Reimbursement. The Company will reimburse you for all reasonable travel or other expenses, including expenses of counsel, incurred by you in connection with your services hereunder, in accordance with the Company’s expense reimbursement policy as in effect from time to time.

c. Invoices; Payment.

i. In order to receive the compensation and reimbursement set forth in this Section 2, you are required to send to the Company regular monthly invoices indicating your fees, costs, and expenses incurred. Payment will be due to you within 10 business days after receipt of each such invoice, subject to the Company’s receipt of appropriate documentation required by the Company’s expenses reimbursement policy.

ii. You further agree that the Company’s obligation to pay the compensation and reimbursement set forth in this Section 2 is conditioned in all respects on the entry of a final order in the court overseeing the Bankruptcy that authorizes and requires HCMLP to reimburse the Company for all such payments to you.

d. Indemnification; D&O Insurance. You will receive indemnification as a Director of the Company on the terms set forth in that certain Indemnification Agreement, dated December 5, 2019, a copy of which is attached hereto as **Appendix A** (the “Indemnification Agreement”). You will also be provided coverage under the Company’s directors’ and officers’ insurance policy as set forth in the Indemnification Agreement.

e. Tax Indemnification. You acknowledge that the Company will not be responsible for the payment of any federal or state taxes that might be assessed with respect to the Retainer and you agree to be responsible for all such taxes.

3. PROPRIETARY INFORMATION OBLIGATIONS.

a. Proprietary Information. You agree that during the Term and thereafter that you will take all steps reasonably necessary to hold all information of the Company, its affiliates, and related entities, which a reasonable person would believe to be confidential or proprietary information, in trust and confidence, and not disclose any such confidential or proprietary information to any third party without first obtaining the Company’s express written consent on a case-by-case basis.

b. Third Party Information. The Company has received and will in the future receive from third parties confidential or proprietary information (“Third Party Information”) subject to a duty on the Company’s part to maintain the confidentiality of such information and to use it only for certain limited purposes. You agree to hold such Third Party Information in confidence and not to disclose it to anyone (other than Company personnel who need to know such information in connection with their work for Company) or to use, except in connection with your services for Company under this Agreement, Third Party Information unless expressly authorized in writing by the Company.

c. Return of Company Property. Upon the end of the Term or upon the Company’s earlier request, you agree to deliver to the Company any and all notes, materials and documents, together with any copies thereof, which contain or disclose any confidential or proprietary information or Third Party Information.

4. OUTSIDE ACTIVITIES.

a. Investments and Interests. Except as permitted by Section 4(b), you agree not to participate in, directly or indirectly, any position or investment known by you to be materially adverse to the Company or any of its affiliates or related entities.

b. Activities. Except with the prior written consent of the Board, you will not during your tenure as a member of the Company’s Board undertake or engage in any other directorship, employment or business enterprise in direct competition with the Company or any of its affiliates or related entities, other than ones in which you are a passive investor or other activities in which you were a participant prior to your appointment to the Board as disclosed to the Company.

c. Other Agreements. You agree that you will not disclose to the Company or use on behalf of the Company any confidential information governed by any agreement between you and any third party except in accordance with such agreement.

5. TERMINATION OF DIRECTORSHIP.

a. Voluntary Resignation, Removal Pursuant to Bylaws and Stockholder Action. You may resign from the Board at any time with or without advance notice, with or without reason. Subject to any orders or agreements entered into in connection with the Bankruptcy, you may be removed from the Board at any time, for any reason, in any manner provided by the Governing Documents and applicable law or by an affirmative vote of a majority of the stockholders of the Company.

b. Continuation. The provisions of this Agreement that give the parties rights or obligations beyond the termination of this Agreement will survive and continue to bind the parties.

c. Payment of Fees; Reimbursement. Following termination of this Agreement, any undisputed fees and expenses due to you will be remitted promptly following receipt by the Company of any outstanding invoices.

6. GENERAL PROVISIONS.

a. Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is held to be invalid, illegal or unenforceable such provision will be reformed, construed and enforced to render it valid, legal, and enforceable consistent with the intent of the parties insofar as possible.

b. Entire Agreement. This Agreement constitutes the entire agreement between you and the Company with respect to your service as a Director and supersedes any prior agreement, promise, representation or statement written between you and the Company with regard to this subject matter. It is entered into without reliance on any promise, representation, statement or agreement other than those expressly contained or incorporated herein, and it cannot be modified or amended except in a writing signed by the party or parties affected by such modification or amendment.

c. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by you and the Company and our respective successors, assigns, heirs, executors and administrators, except that you may not assign any of your rights or duties hereunder without the written consent of the Company.

d. Governing Law. This Agreement will be governed by the law of the State of Delaware as applied to contracts made and performed entirely within Delaware.

We are all delighted to be able to extend you this offer and look forward to working with you. To indicate your acceptance of the Company's offer, please sign and date this Agreement below.

Sincerely,

STRAND ADVISORS, INC.

By: Scott Ellington
Its: Secretary

[Signature Page Follows]

ACCEPTED AND AGREED:

[NAME]
Date: _____

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (“**Agreement**”), dated as of [_____], is by and between STRAND ADVISORS, INC., a Delaware corporation (the “**Company**”), and [_____] (the “**Indemnitee**”).

WHEREAS, Indemnitee has agreed to serve as a member of the Company’s board of directors (the “**Board**”) effective as of the date hereof;

WHEREAS, the Board has determined that enhancing the ability of the Company to retain and attract as directors the most capable Persons is in the best interests of the Company and that the Company therefore should seek to assure such Persons that indemnification and insurance coverage is available; and

WHEREAS, in recognition of the need to provide Indemnitee with protection against personal liability, in order to procure Indemnitee’s service as a director of the Company, in order to enhance Indemnitee’s ability to serve the Company in an effective manner and in order to provide such protection pursuant to express contract rights (intended to be enforceable irrespective of, among other things, any amendment to the Company’s Bylaws (as may be amended further from time to time, the “**Bylaws**”), any change in the composition of the Board or any change in control, business combination or similar transaction relating to the Company), the Company wishes to provide in this Agreement for the indemnification of, and the advancement of Expenses (as defined in Section 1(g) below) to, Indemnitee as set forth in this Agreement and for the coverage of Indemnitee under the Company’s directors’ and officers’ liability or similar insurance policies (“**D&O Insurance**”).

NOW, THEREFORE, in consideration of the foregoing and the Indemnitee’s agreement to provide services to the Company, the parties agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) “**Change in Control**” means the occurrence of any of the following: (i) the direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions (including any merger or consolidation or whether by operation of law or otherwise), of all or substantially all of the properties or assets of the Company and its subsidiaries, to a third party purchaser (or group of affiliated third party purchasers) or (ii) the consummation of any transaction (including any merger or consolidation or whether by operation of law or otherwise), the result of which is that a third party purchaser (or group of affiliated third party purchasers) becomes the beneficial owner, directly or indirectly, of more than fifty percent (50%) of the then outstanding Shares or of the surviving entity of any such merger or consolidation.

(b) “**Claim**” means:

(i) any threatened, pending or completed action, suit, claim, demand, arbitration, inquiry, hearing, proceeding or alternative dispute resolution mechanism, or

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any actual, threatened or completed proceeding, including any and all appeals, in each case, whether brought by or in the right of the Company or otherwise, whether civil, criminal, administrative, arbitrative, investigative or other, whether formal or informal, and whether made pursuant to federal, state, local, foreign or other law, and whether or not commenced prior to the date of this Agreement, in which Indemnitee was, is or will be involved as a party or otherwise, by reason of or relating to either (a) any action or alleged action taken by Indemnitee (or failure or alleged failure to act) or of any action or alleged action (or failure or alleged failure to act) on Indemnitee's part, while acting in his or her Corporate Status or (b) the fact that Indemnitee is or was serving at the request of the Company or any subsidiary of the Company as director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another Enterprise, in each case, whether or not serving in such capacity at the time any Loss or Expense is paid or incurred for which indemnification or advancement of Expenses can be provided under this Agreement, except one initiated by Indemnitee to enforce his or her rights under this Agreement; or

(ii) any inquiry, hearing or investigation that the Indemnitee determines might lead to the institution of any such action, suit, proceeding or alternative dispute resolution mechanism.

(c) **“Controlled Entity”** means any corporation, limited liability company, partnership, joint venture, trust or other Enterprise, whether or not for profit, that is, directly or indirectly, controlled by the Company. For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of an Enterprise, whether through the ownership of voting securities, through other voting rights, by contract or otherwise.

(d) **“Corporate Status”** means the status of a Person who is or was a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of the Company or of any other Enterprise which such Person is or was serving at the request of the Company or any subsidiary of the Company. In addition to any service at the actual request of the Company, Indemnitee will be deemed, for purposes of this Agreement, to be serving or to have served at the request of the Company or any subsidiary of the Company as a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another Enterprise if Indemnitee is or was serving as a director, officer, employee, partner, member, manager, fiduciary, trustee or agent of such Enterprise and (i) such Enterprise is or at the time of such service was a Controlled Entity, (ii) such Enterprise is or at the time of such service was an employee benefit plan (or related trust) sponsored or maintained by the Company or a Controlled Entity or (iii) the Company or a Controlled Entity, directly or indirectly, caused Indemnitee to be nominated, elected, appointed, designated, employed, engaged or selected to serve in such capacity.

(e) **“Disinterested Director”** means a director of the Company who is not and was not a party to the Claim in respect of which indemnification is sought by Indemnitee. Under no circumstances will James Dondero be considered a Disinterested Director.

(f) **“Enterprise”** means the Company or any subsidiary of the Company or any other corporation, partnership, limited liability company, joint venture, employee benefit

plan, trust or other entity or other enterprise of which Indemnitee is or was serving at the request of the Company or any subsidiary of the Company in a Corporate Status.

(g) “**Expenses**” means any and all expenses, fees, including attorneys’, witnesses’ and experts’ fees, disbursements and retainers, court costs, transcript costs, travel expenses, duplicating, printing and binding costs, telephone charges, postage, fax transmission charges, secretarial services, delivery services fees, and all other fees, costs, disbursements and expenses paid or incurred in connection with investigating, defending, prosecuting, being a witness in or participating in (including on appeal), or preparing to defend, prosecute, be a witness or participate in, any Claim. Expenses also shall include (i) Expenses paid or incurred in connection with any appeal resulting from any Claim, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 4 only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee’s rights under this Agreement, by litigation or otherwise. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(h) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended, or any successor statute thereto, and the rules and regulations of the United States Securities and Exchange Commission promulgated thereunder.

(i) “**Expense Advance**” means any payment of Expenses advanced to Indemnitee by the Company pursuant to Section 4 or Section 5 hereof.

(j) “**Indemnifiable Event**” means any event or occurrence, whether occurring before, on or after the date of this Agreement, related to the fact that Indemnitee is or was a manager, director, officer, employee or agent of the Company or any subsidiary of the Company, or is or was serving at the request of the Company or any subsidiary of the Company as a manager, director, officer, employee, member, manager, trustee or agent of any other Enterprise or by reason of an action or inaction by Indemnitee in any such capacity (whether or not serving in such capacity at the time any Loss is incurred for which indemnification can be provided under this Agreement).

(k) “**Independent Counsel**” means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently performs, nor in the past three (3) years has performed, services for any of: (i) James Dondero, (ii) the Company or Indemnitee (other than in connection with matters concerning Indemnitee under this Agreement or of other indemnitees under similar agreements), or (iii) any other party to the Claim giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any Person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement.

(l) “**Losses**” means any and all Expenses, damages, losses, liabilities, judgments, fines (including excise taxes and penalties assessed with respect to employee

benefit plans and ERISA excise taxes), penalties (whether civil, criminal or other), amounts paid or payable in settlement, including any interest, assessments, any federal, state, local or foreign taxes imposed as a result of the actual or deemed receipt of any payments under this Agreement and all other charges paid or payable in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to defend, be a witness or participate in, any Claim.

(m) “**Person**” means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity and includes the meaning set forth in Sections 13(d) and 14(d) of the Exchange Act.

(n) “**Shares**” means an ownership interest of a member in the Company, including each of the common shares of the Company or any other class or series of Shares designated by the Board.

(o) References to “**serving at the request of the Company**” include any service as a director, manager, officer, employee, representative or agent of the Company which imposes duties on, or involves services by, such director, manager, officer, employee or agent, including but not limited to any employee benefit plan, its participants or beneficiaries; and a Person who acted in good faith and in a manner he or she reasonably believed to be in and not opposed to the best interests of the Company in Indemnitee’s capacity as a director, manager, officer, employee, representative or agent of the Company, including but not limited to acting in the best interest of participants and beneficiaries of an employee benefit plan will be deemed to have acted in a manner “**not opposed to the best interests of the Company**” as referred to under applicable law or in this Agreement.

2. Indemnification.

(a) Subject to Section 9 and Section 10 of this Agreement, the Company shall indemnify and hold Indemnitee harmless, to the fullest extent permitted by the laws of the State of Delaware in effect on the date hereof, or as such laws may from time to time hereafter be amended to increase the scope of such permitted indemnification, against any and all Losses and Expenses if Indemnitee was or is or becomes a party to or participant in, or is threatened to be made a party to or participant in, any Claim by reason of or arising in part out of an Indemnifiable Event, including, without limitation, Claims brought by or in the right of the Company, Claims brought by third parties, and Claims in which the Indemnitee is solely a witness.

(b) For the avoidance of doubt, the indemnification rights and obligations contained herein shall also extend to any Claim in which the Indemnitee was or is a party to, was or is threatened to be made a party to or was or is otherwise involved in any capacity in by reason of Indemnitee’s Corporate Status as a fiduciary capacity with respect to an employee benefit plan. In connection therewith, if the Indemnitee has acted in good faith and in a manner which appeared to be consistent with the best interests of the participants and beneficiaries of an employee benefit plan and not opposed thereto, the Indemnitee shall be deemed to have acted in a manner not opposed to the best interests of the Company.

3. Contribution.

(a) Whether or not the indemnification provided in Section 2 is available, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any Claim in which the Company is jointly liable with Indemnitee (or would be if joined in such Claim), the Company shall contribute to the amount of Losses paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors, managers or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Claim), on the one hand, and Indemnitee, on the other hand, from the transaction or events from which such Claim arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors, managers or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such Claim), on the one hand, and Indemnitee, on the other hand, in connection with the transaction or events that resulted in such Losses, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors, managers or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Claim), on the one hand, and Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(b) The Company hereby agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by officers, directors, managers or employees of the Company, other than Indemnitee, who may be jointly liable with Indemnitee.

(c) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any Claim relating to an Indemnifiable Event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Claim in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Claim; and/or (ii) the relative fault of the Company (and its directors, managers, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

4. Advancement of Expenses. The Company shall, if requested by Indemnitee, advance, to the fullest extent permitted by law, to Indemnitee (an “**Expense Advance**”) any and all Expenses actually and reasonably paid or incurred (even if unpaid) by Indemnitee in connection with any Claim arising out of an Indemnifiable Event (whether prior to or after its final disposition). Indemnitee’s right to such advancement is not subject to the satisfaction of any standard of conduct. Without limiting the generality or effect of

the foregoing, within thirty (30) business days after any request by Indemnitee, the Company shall, in accordance with such request, (a) pay such Expenses on behalf of Indemnitee, (b) advance to Indemnitee funds in an amount sufficient to pay such Expenses, or (c) reimburse Indemnitee for such Expenses. In connection with any request for Expense Advances, Indemnitee shall not be required to provide any documentation or information to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Execution and delivery to the Company of this Agreement by Indemnitee constitutes an undertaking by the Indemnitee to repay any amounts paid, advanced or reimbursed by the Company pursuant to this Section 4, the final sentence of Section 9(b), or Section 11(b) in respect of Expenses relating to, arising out of or resulting from any Claim in respect of which it shall be determined, pursuant to Section 9, following the final disposition of such Claim, that Indemnitee is not entitled to indemnification hereunder. No other form of undertaking shall be required other than the execution of this Agreement. Each Expense Advance will be unsecured and interest free and will be made by the Company without regard to Indemnitee's ability to repay the Expense Advance.

5. Indemnification for Expenses in Enforcing Rights. To the fullest extent allowable under applicable law, the Company shall also indemnify against, and, if requested by Indemnitee, shall advance to Indemnitee subject to and in accordance with Section 4, any Expenses actually and reasonably paid or incurred (even if unpaid) by Indemnitee in connection with any action or proceeding by Indemnitee for (a) indemnification or reimbursement or advance payment of Expenses by the Company under any provision of this Agreement, or under any other agreement or provision of the Bylaws now or hereafter in effect relating to Claims relating to Indemnifiable Events, and/or (b) recovery under any D&O Insurance maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification or insurance recovery, as the case may be. Indemnitee shall be required to reimburse the Company in the event that a final judicial determination is made that such action brought by Indemnitee was frivolous or not made in good faith.

6. Partial Indemnity. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for a portion of any Losses in respect of a Claim related to an Indemnifiable Event but not for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

7. Notification and Defense of Claims.

(a) Notification of Claims. Indemnitee shall notify the Company in writing as soon as reasonably practicable of any Claim which could relate to an Indemnifiable Event or for which Indemnitee could seek Expense Advances, including a brief description (based upon information then available to Indemnitee) of the nature of, and the facts underlying, such Claim, to the extent then known. The failure by Indemnitee to timely notify the Company hereunder shall not relieve the Company from any liability hereunder except to the extent the Company's ability to participate in the defense of such claim was materially and adversely affected by such failure. If at the time of the receipt of such notice, the Company has D&O Insurance or any other insurance in effect under which coverage for Claims related to Indemnifiable Events is potentially available, the Company shall give

prompt written notice to the applicable insurers in accordance with the procedures, provisions, and terms set forth in the applicable policies. The Company shall provide to Indemnitee a copy of such notice delivered to the applicable insurers, and copies of all subsequent correspondence between the Company and such insurers regarding the Claim, in each case substantially concurrently with the delivery or receipt thereof by the Company.

(b) Defense of Claims. The Company shall be entitled to participate in the defense of any Claim relating to an Indemnifiable Event at its own expense and, except as otherwise provided below, to the extent the Company so wishes, it may assume the defense thereof with counsel reasonably satisfactory to Indemnitee. After notice from the Company to Indemnitee of its election to assume the defense of any such Claim, the Company shall not be liable to Indemnitee under this Agreement or otherwise for any Expenses subsequently directly incurred by Indemnitee in connection with Indemnitee's defense of such Claim other than reasonable costs of investigation or as otherwise provided below. Indemnitee shall have the right to employ its own legal counsel in such Claim, but all Expenses related to such counsel incurred after notice from the Company of its assumption of the defense shall be at Indemnitee's own expense; provided, however, that if (i) Indemnitee's employment of its own legal counsel has been authorized by the Company, (ii) Indemnitee has reasonably determined that there may be a conflict of interest between Indemnitee and the Company in the defense of such Claim, (iii) after a Change in Control, Indemnitee's employment of its own counsel has been approved by the Independent Counsel or (iv) the Company shall not in fact have employed counsel to assume the defense of such Claim, then Indemnitee shall be entitled to retain its own separate counsel (but not more than one law firm plus, if applicable, local counsel in respect of any such Claim) and all Expenses related to such separate counsel shall be borne by the Company.

8. Procedure upon Application for Indemnification. In order to obtain indemnification pursuant to this Agreement, Indemnitee shall submit to the Company a written request therefor, including in such request such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of the Claim, provided that documentation and information need not be so provided to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Indemnification shall be made insofar as the Company determines Indemnitee is entitled to indemnification in accordance with Section 9 below.

9. Determination of Right to Indemnification.

(a) Mandatory Indemnification; Indemnification as a Witness.

(i) To the extent that Indemnitee shall have been successful on the merits or otherwise in defense of any Claim relating to an Indemnifiable Event or any portion thereof or in defense of any issue or matter therein, including without limitation dismissal without prejudice, Indemnitee shall be indemnified against all Losses relating to such Claim in accordance with Section 2, and no Standard of Conduct Determination (as defined in Section 9(b)) shall be required.

(ii) To the extent that Indemnitee's involvement in a Claim relating to an Indemnifiable Event is to prepare to serve and serve as a witness, and not as a party, the Indemnitee shall be indemnified against all Losses incurred in connection therewith to the fullest extent allowable by law and no Standard of Conduct Determination (as defined in Section 9(b)) shall be required.

(b) Standard of Conduct. To the extent that the provisions of Section 9(a) are inapplicable to a Claim related to an Indemnifiable Event that shall have been finally disposed of, any determination of whether Indemnitee has satisfied any applicable standard of conduct under Delaware law that is a legally required condition to indemnification of Indemnitee hereunder against Losses relating to such Claim and any determination that Expense Advances must be repaid to the Company (a "**Standard of Conduct Determination**") shall be made as follows:

(i) if no Change in Control has occurred, (A) by a majority vote of the Disinterested Directors, even if less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum or (C) if there are no such Disinterested Directors, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to Indemnitee; and

(ii) if a Change in Control shall have occurred, (A) if the Indemnitee so requests in writing, by a majority vote of the Disinterested Directors, even if less than a quorum of the Board or (B) otherwise, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to Indemnitee.

Subject to Section 4, the Company shall indemnify and hold Indemnitee harmless against and, if requested by Indemnitee, shall reimburse Indemnitee for, or advance to Indemnitee, within thirty (30) business days of such request, any and all Expenses incurred by Indemnitee in cooperating with the Person or Persons making such Standard of Conduct Determination.

(c) Making the Standard of Conduct Determination. The Company shall use its reasonable best efforts to cause any Standard of Conduct Determination required under Section 9(b) to be made as promptly as practicable. If the Person or Persons designated to make the Standard of Conduct Determination under Section 9(b) shall not have made a determination within ninety (90) days after the later of (A) receipt by the Company of a written request from Indemnitee for indemnification pursuant to Section 8 (the date of such receipt being the "**Notification Date**") and (B) the selection of an Independent Counsel, if such determination is to be made by Independent Counsel, then Indemnitee shall be deemed to have satisfied the applicable standard of conduct; provided that such 90-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the Person or Persons making such determination in good faith requires such additional time to obtain or evaluate information relating thereto. Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnitee to indemnification under this Agreement shall be required to be made prior to the final disposition of any Claim.

(d) Payment of Indemnification. If, in regard to any Losses:

(i) Indemnitee shall be entitled to indemnification pursuant to Section 9(a);

(ii) no Standard of Conduct Determination is legally required as a condition to indemnification of Indemnitee hereunder; or

(iii) Indemnitee has been determined or deemed pursuant to Section 9(b) or Section 9(c) to have satisfied the Standard of Conduct Determination,

then the Company shall pay to Indemnitee, within thirty (30) business days after the later of (A) the Notification Date or (B) the earliest date on which the applicable criterion specified in clause (i), (ii) or (iii) is satisfied, an amount equal to such Losses.

(e) Selection of Independent Counsel for Standard of Conduct Determination. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 9(b)(i), the Independent Counsel shall be selected by the Board and the Company shall give written notice to Indemnitee advising him of the identity of the Independent Counsel so selected. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 9(b)(ii), the Independent Counsel shall be selected by Indemnitee, and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either case, Indemnitee or the Company, as applicable, may, within thirty (3) business days after receiving written notice of selection from the other, deliver to the other a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not satisfy the criteria set forth in the definition of “Independent Counsel” in Section 1(k), and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the Person or firm so selected shall act as Independent Counsel. If such written objection is properly and timely made and substantiated, (i) the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit; and (ii) the non-objecting party may, at its option, select an alternative Independent Counsel and give written notice to the other party advising such other party of the identity of the alternative Independent Counsel so selected, in which case the provisions of the two immediately preceding sentences, the introductory clause of this sentence and numbered clause (i) of this sentence shall apply to such subsequent selection and notice. If applicable, the provisions of clause (ii) of the immediately preceding sentence shall apply to successive alternative selections. If no Independent Counsel that is permitted under the foregoing provisions of this Section 9(e) to make the Standard of Conduct Determination shall have been selected within twenty (20) days after the Company gives its initial notice pursuant to the first sentence of this Section 9(e) or Indemnitee gives its initial notice pursuant to the second sentence of this Section 9(e), as the case may be, either the Company or Indemnitee may petition the Court of Chancery of the State of Delaware (“**Delaware Court**”) to resolve any objection which shall have been made by the Company or Indemnitee to the other’s selection of Independent Counsel and/or to appoint as Independent Counsel a Person to be selected by the Court or such other Person as the Court

shall designate, and the Person or firm with respect to whom all objections are so resolved or the Person or firm so appointed will act as Independent Counsel. In all events, the Company shall pay all of the reasonable fees and expenses of the Independent Counsel incurred in connection with the Independent Counsel's determination pursuant to Section 9(b).

(f) Presumptions and Defenses.

(i) Indemnitee's Entitlement to Indemnification. In making any Standard of Conduct Determination, the Person or Persons making such determination shall presume that Indemnitee has satisfied the applicable standard of conduct and is entitled to indemnification, and the Company shall have the burden of proof to overcome that presumption and establish that Indemnitee is not so entitled. Any Standard of Conduct Determination that is adverse to Indemnitee may be challenged by the Indemnitee in the Delaware Court. No determination by the Company (including by its Board or any Independent Counsel) that Indemnitee has not satisfied any applicable standard of conduct may be used as a defense to enforcement by Indemnitee of Indemnitee's rights of indemnification or reimbursement or advance of payment of Expenses by the Company hereunder or create a presumption that Indemnitee has not met any applicable standard of conduct.

(ii) Reliance as a Safe Harbor. For purposes of this Agreement, and without creating any presumption as to a lack of good faith if the following circumstances do not exist, Indemnitee shall be deemed to have acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee's actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports or statements furnished to Indemnitee by the officers or employees of the Company or any of its subsidiaries in the course of their duties, or by committees of the Board or by any other Person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any director, manager, officer, agent or employee of the Company (other than Indemnitee) shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

(iii) Defense to Indemnification and Burden of Proof. It shall be a defense to any action brought by Indemnitee against the Company to enforce this Agreement (other than an action brought to enforce a claim for Losses incurred in defending against a Claim related to an Indemnifiable Event in advance of its final disposition) that it is not permissible under applicable law for the Company to indemnify Indemnitee for the amount claimed. In connection with any such action or any related Standard of Conduct Determination, the burden of proving such a defense or that the Indemnitee did not satisfy the applicable standard of conduct shall be on the Company.

10. Exclusions from Indemnification. Notwithstanding anything in this Agreement to the contrary, the Company shall not be obligated to:

(a) indemnify or advance funds to Indemnitee for Losses with respect to proceedings initiated by Indemnitee, including any proceedings against the Company or its managers, officers, employees or other indemnitees and not by way of defense, except:

(i) proceedings referenced in Section 4 above (unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous); or

(ii) where the Company has joined in or the Board has consented to the initiation of such proceedings.

(b) indemnify Indemnitee if a final decision by a court of competent jurisdiction determines that such indemnification is prohibited by applicable law.

(c) indemnify Indemnitee for the disgorgement of profits arising from the purchase or sale by Indemnitee of securities of the Company in violation of Section 16(b) of the Exchange Act, or any similar successor statute.

11. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 9 that Indemnitee is not entitled to indemnification under this Agreement, (ii) an Expense Advance is not timely made pursuant to Section 4, (iii) no determination of entitlement to indemnification is made pursuant to Section 9 within 90 days after receipt by the Company of the request for indemnification, or (iv) payment of indemnification is not made pursuant Section 9(d), Indemnitee shall be entitled to an adjudication in a Delaware Court, or in any other court of competent jurisdiction, of Indemnitee's entitlement to such indemnification. Indemnitee shall commence such proceeding seeking an adjudication within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 11(a). The Company shall not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that Indemnitee, pursuant to this Section 11, seeks a judicial adjudication or arbitration of his or her rights under, or to recover damages for breach of, this Agreement, any other agreement for indemnification, payment of Expenses in advance or contribution hereunder or to recover under any director, manager, and officer liability insurance policies or any other insurance policies maintained by the Company, the Company will, to the fullest extent permitted by law and subject to Section 4, indemnify and hold harmless Indemnitee against any and all Expenses which are paid or incurred by Indemnitee in connection with such judicial adjudication or arbitration, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, payment of Expenses in advance or contribution or insurance recovery. In addition, if requested by Indemnitee, subject to Section 4 the Company will (within thirty (30) days after receipt by the Company of the written request therefor), pay as an Expense Advance such Expenses, to the fullest extent permitted by law.

(c) In the event that a determination shall have been made pursuant to Section 9 that Indemnitee is not entitled to indemnification, any judicial proceeding commenced

pursuant to this Section 11 shall be conducted in all respects as a de novo trial on the merits, and Indemnitee shall not be prejudiced by reason of the adverse determination under Section 9.

(d) If a determination shall have been made pursuant to Section 9 that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 11, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's misstatement not materially misleading in connection with the application for indemnification, or (ii) a prohibition of such indemnification under applicable law.

12. Settlement of Claims. The Company shall not be liable to Indemnitee under this Agreement for any amounts paid in settlement of any threatened or pending Claim related to an Indemnifiable Event effected without the Company's prior written consent, which shall not be unreasonably withheld; provided, however, that if a Change in Control has occurred, the Company shall be liable for indemnification of the Indemnitee for amounts paid in settlement if an Independent Counsel (which, for purposes of this Section 12, shall be selected by the Company with the prior consent of the Indemnitee, such consent not to be unreasonably withheld or delayed) has approved the settlement. The Company shall not settle any Claim related to an Indemnifiable Event in any manner that would impose any Losses on the Indemnitee without the Indemnitee's prior written consent.

13. Duration. All agreements and obligations of the Company contained herein shall continue during the period that Indemnitee is a manager of the Company (or is serving at the request of the Company as a director, manager, officer, employee, member, trustee or agent of another Enterprise) and shall continue thereafter (i) so long as Indemnitee may be subject to any possible Claim relating to an Indemnifiable Event (including any rights of appeal thereto) and (ii) throughout the pendency of any proceeding (including any rights of appeal thereto) commenced by Indemnitee to enforce or interpret his or her rights under this Agreement, even if, in either case, he or she may have ceased to serve in such capacity at the time of any such Claim or proceeding.

14. Other Indemnitors. The Company hereby acknowledges that Indemnitee may have certain rights to indemnification, advancement of Expenses and/or insurance provided by certain private equity funds, hedge funds or other investment vehicles or management companies and/or certain of their affiliates and by personal policies (collectively, the "**Other Indemnitors**"). The Company hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to Indemnitee are primary and any obligation of the Other Indemnitors to advance Expenses or to provide indemnification for the same Expenses or liabilities incurred by Indemnitee are secondary), (ii) that it shall be required to advance the full amount of Expenses incurred by Indemnitee and shall be liable for the full amount of all Expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement and the Bylaws (or any other agreement between the Company and Indemnitee), without regard to any rights Indemnitee may have against the Other Indemnitors, and, (iii) that it irrevocably waives, relinquishes and releases the Other Indemnitors from any and all claims against the Other

Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Other Indemnitors on behalf of Indemnitee with respect to any claim for which Indemnitee has sought indemnification from the Company shall affect the foregoing and the Other Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Company. The Company and Indemnitee agree that the Other Indemnitors are express third party beneficiaries of the terms of this Section 14.

15. Non-Exclusivity. The rights of Indemnitee hereunder will be in addition to any other rights Indemnitee may have under the Bylaws, the General Corporation Law of the State of Delaware (as may be amended from time to time, the “**DGCL**”), any other contract, in law or in equity, and under the laws of any state, territory, or jurisdiction, or otherwise (collectively, “**Other Indemnity Provisions**”). The Company will not adopt any amendment to its Bylaws the effect of which would be to deny, diminish, encumber or limit Indemnitee’s right to indemnification under this Agreement or any Other Indemnity Provision.

16. Liability Insurance. For the duration of Indemnitee’s service as a director of the Company, and thereafter for so long as Indemnitee shall be subject to any pending Claim relating to an Indemnifiable Event, the Company shall use best efforts to continue to maintain in effect policies of D&O Insurance providing coverage that is at least substantially comparable in scope and amount to that provided by similarly situated companies. In all policies of D&O Insurance maintained by the Company, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are provided to the most favorably insured of the Company’s directors. Upon request, the Company will provide to Indemnitee copies of all D&O Insurance applications, binders, policies, declarations, endorsements and other related materials.

17. No Duplication of Payments. The Company shall not be liable under this Agreement to make any payment to Indemnitee in respect of any Losses to the extent Indemnitee has otherwise received payment under any insurance policy, any Other Indemnity Provisions or otherwise of the amounts otherwise indemnifiable by the Company hereunder.

18. Subrogation. In the event of payment to Indemnitee under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee. Indemnitee shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

19. Indemnitee Consent. The Company will not, without the prior written consent of Indemnitee, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (a) includes an admission of fault of Indemnitee, any non-monetary remedy imposed on Indemnitee or a Loss for which Indemnitee is not wholly indemnified hereunder or (b) with respect to any Claim with respect to which Indemnitee may be or is made a party or a participant or may be or is otherwise entitled to seek

indemnification hereunder, does not include, as an unconditional term thereof, the full release of Indemnitee from all liability in respect of such Claim, which release will be in form and substance reasonably satisfactory to Indemnitee. Neither the Company nor Indemnitee will unreasonably withhold its consent to any proposed settlement; provided, however, Indemnitee may withhold consent to any settlement that does not provide a full and unconditional release of Indemnitee from all liability in respect of such Claim.

20. Amendments. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement of the waiver is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

22. Severability. Each provision of this Agreement shall be considered severable and if for any reason any provision which is not essential to the effectuation of the basic purposes of this Agreement is determined by a court of competent jurisdiction to be invalid, unenforceable or contrary to the DGCL or existing or future applicable law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those provisions of this Agreement which are valid, enforceable and legal. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it valid, enforceable and legal within the requirements of any applicable law, and in the event such term or provision cannot be so limited, this Agreement shall be construed to omit such invalid, unenforceable or illegal provisions.

23. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed, by postage prepaid, certified or registered mail:

- (a) if to Indemnitee, to the address set forth on the signature page hereto.
- (b) if to the Company, to:

Strand Advisors, Inc.
Attention: Isaac Leventon

Address: 300 Crescent Court, Suite 700
Dallas, Texas 75201
Email: ileventon@highlandcapital.com

Notice of change of address shall be effective only when given in accordance with this Section 23. All notices complying with this Section 23 shall be deemed to have been received on the date of hand delivery or on the third business day after mailing.

24. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE (OTHER THAN ITS RULES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY).

25. Jurisdiction. The parties hereby agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be brought in the United States District Court for the District of Delaware or in the Court of Chancery of the State of Delaware (or, if such court lacks subject matter jurisdiction, in the Superior Court of the State of Delaware), so long as one of such courts shall have subject-matter jurisdiction over such suit, action or proceeding, and that any case of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of Delaware. Each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

26. Enforcement.

(a) Without limiting Section 15, this Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

(b) The Company shall not seek from a court, or agree to, a "bar order" which would have the effect of prohibiting or limiting the Indemnitee's rights to receive advancement of Expenses under this Agreement other than in accordance with this Agreement.

27. Headings and Captions. All headings and captions contained in this Agreement and the table of contents hereto are inserted for convenience only and shall not be deemed a part of this Agreement.

28. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the

same agreement. Facsimile counterpart signatures to this Agreement shall be binding and enforceable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

STRAND ADVISORS, INC.

By: _____
Name:
Title:

[SIGNATURE PAGE – INDEMNIFICATION AGREEMENT]

INDEMNITEE:

Name: []

Address: _____

Email:

[SIGNATURE PAGE – INDEMNIFICATION AGREEMENT]

December ___, 2019

Attn: Independent Directors
Highland Capital Management, LP
300 Crescent Court, Ste. 700
Dallas, TX 75201

Re: Development Specialists, Inc. (“DSI”)
Retention and Letter of Engagement

Dear Members of the Board:

Please accept this letter as our firm’s formal written agreement (the “Agreement”) to provide restructuring support services to Highland Capital Management, L.P. (the “Company”). This Agreement replaces and supersedes in all respects the letter agreement between DSI and the Company, dated October 7, 2019, as amended and revised by the letter agreement dated October 29, 2019. However, all fees and expenses incurred by DSI prior to the date hereof in accordance with such prior letter agreements will be paid by the Company, subject to allowance of such fees and expenses by the U.S. Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”). The Agreement will become effective upon execution by duly authorized representatives of the respective parties and approval of the Bankruptcy Court.

Section 1 – Scope of Work

DSI will provide the following services (the “Services”) to the Company:

1. Bradley D. Sharp will act as the Company’s Chief Restructuring Officer (“CRO”) with other DSI personnel to assist Mr. Sharp in carrying out those duties and responsibilities.
2. Subject to the terms of this Agreement, as CRO, Mr. Sharp will assume control of the Company’s restructuring and direct the Company with respect to its bankruptcy filed on October 16, 2019 (the “Chapter 11 Case”), which Chapter 11 Case has now been transferred to the Bankruptcy Court.
3. Subject to the terms of this Agreement, Mr. Sharp will report to the Independent Directors and, if appointed, the Chief Executive Officer of the Company (“CEO”) and will comply with the Company’s corporate governance requirements.
4. As directed by the Independent Directors and/or CEO, the CRO will be responsible for the implementation and prosecution of the Chapter 11 Case, including negotiations with creditors, reconciliation of claims, and confirmation of a plan or plans of reorganization.
5. Provide other personnel of DSI (“Additional Personnel”) to provide restructuring support services as requested or required to the Company, which may include but are not limited to:

Highland Capital Management, LP
December ____, 2019
Page 2

- a. assisting the Company in the preparation of financial disclosures required by the Bankruptcy Code, including the Schedules of Assets and Liabilities, the Statements of Financial Affairs and Monthly Operating Reports;
- b. advising and assisting the Company, the Company's legal counsel, and other professionals in responding to third party requests;
- c. attending meetings and assisting in communications with parties in interest and their professionals, including the Official Committee of Unsecured Creditors appointed in the Chapter 11 Case;
- d. providing litigation advisory services with respect to accounting matters, along with expert witness testimony on case related issues; and
- e. rendering such other general business consulting services or other assistance as the Company may deem necessary and which are consistent with the role of a financial advisor and not duplicative of services provided by other professionals in this case.

DSI's ability to adequately perform the Services is dependent upon the Company timely providing reliable, accurate, and complete necessary information. The Company agrees that CRO will have (i) access to and the ability to communicate with any employee of the Company or any affiliate of the Company and (ii) access to any information, including documents, relating to the Company or any Company affiliate, including, but not limited to, information concerning collections and disbursements. The Company acknowledges that DSI or CRO are not responsible for independently verifying the veracity, completeness, or accuracy of any information supplied to us by or on behalf of the Company.

DSI will submit its evaluations and analyses pursuant to this Agreement in periodic oral and written reports. Such reports are intended to and shall constitute privileged and confidential information, and shall constitute the Company's property.

Although we do not predict or warrant the outcome of any particular matter or issue, and our fees are not dependent upon such outcomes, we will perform the Services with reasonable care and in a diligent and competent manner.

Section 2 – Rates, Invoicing and Retainer

DSI will be compensated at a rate of \$100,000 per month, plus expenses (capped at \$10,000 per month), for the services of Bradley D. Sharp as CRO and such DSI personnel (including Fred Caruso) as are required to fulfill Mr. Sharp's responsibilities as CRO; provided that if any single expense exceeds \$1,000, DSI will provide reasonable documentation and will obtain the Company's prior written approval.

A number of DSI's personnel have experience in providing restructuring support services and may be utilized as Additional Personnel in this representation. Although others of our staff may

Highland Capital Management, LP
December __, 2019
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also be involved, we have listed below certain of the DSI personnel (along with their corresponding billing rates) who would likely constitute the Additional Personnel. The individuals are:

R. Brian Calvert	\$640.00/hr.
Thomas P. Jeremiassen	\$575.00/hr.
Eric J. Held	\$495.00/hr.
Nicholas R. Troszak	\$485.00/hr.
Spencer G. Ferrero	\$350.00/hr.
Tom Frey	\$325.00/hr.

The above rates are adjusted as of January 1 of each year to reflect advancing experience, capabilities, and seniority of our professionals as well as general economic factors.

We acknowledge receipt of a retainer of \$250,000 from the Company. The purpose of the retainer is to secure a portion of our fees and expenses and to retain our status as a non-creditor should such be required for DSI to continue to provide the Services. As such, should a need arise to increase this retainer due to the level of Services DSI is providing or projected to provide, we will send the Company a supplement to this Agreement requesting the necessary increases and discuss with the Company the amount and timing of providing such increase to the retainer.

This retainer will be applied to our final invoice. If the retainer exceeds the amount of our final invoice, we will refund the difference to the Company at that time. In the event that periodic invoices are not paid timely, we will apply the retainer to the amounts owing on such invoices and, if applicable, any related late charges, and we will stop work until the retainer is replenished to the full amount required. If the retainer is not replenished within ten (10) days after the application of the retainer to unpaid balances, we reserve the right to terminate this Agreement in accordance with the provisions of Section 3 of this Agreement.

DSI also will be entitled to reimbursement for its reasonable costs and expenses. Such costs and expenses may include, among others, charges for messenger services, photocopying, travel expenses, long distance telephone charges, postage and other charges customarily invoiced by consulting firms. Airfare for international flights will be charged at the business class fare; provided that if any single expense exceeds \$1,000, DSI will provide reasonable documentation and will obtain the Company's prior written approval.

This Agreement shall be presented to the Bankruptcy Court for approval and continuation, pursuant to Bankruptcy Code Section 363 and DSI's then-prospective obligations shall be contingent upon such approval.

Highland Capital Management, LP
December ____, 2019
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Section 3 – Termination

Either the Company or DSI may terminate this Agreement for any reason with ten (10) business days' written notice. Notwithstanding anything to the contrary contained herein, the Company shall be obligated, in accordance with any orders of or procedures established by the Court, to pay and/or reimburse DSI all fees and expenses accrued under this Agreement as of the effective date of the termination.

Section 4 – Relationship of the Parties, Confidentiality

DSI will provide the Services to and for the Company, with select members of DSI assigned to specific roles for the benefit of the Company. These members will remain as DSI employees during the pendency of this case. Specifically, the parties intend that an independent contractor relationship will be created by this Agreement. Employees of DSI are not to be considered employees of the Company and are not entitled to any of the benefits that the Company provides for the Company's employees.

The Company acknowledges that all advice (written or oral) given by DSI to the Company in connection with DSI's engagement is intended solely for the benefit and use of the Company in considering the transaction to which it relates, and that no third party is entitled to rely on any such advice or communication. DSI will in no way be deemed to be providing services for any person not a party to this Agreement.

DSI agrees that all information not publicly available that is received by DSI from the Company in connection with this Agreement or that is developed pursuant to this Agreement, will be treated as confidential and will not be disclosed by DSI, except as required by Court order, or other legal process, or as may be authorized by the Company. DSI shall not be required to defend any action to obtain an order requiring disclosure of such information, but shall instead give prompt notice of any such action to the Company so that it may seek appropriate remedies, including a protective order. The Company shall reimburse DSI for all costs and fees (including reasonable attorney's fees) incurred by DSI relating to responding to (whether by objecting to or complying with) any subpoenas or requests for production of information or documents.

Section 5 – Indemnity

The Company shall name Bradley D. Sharp as its Chief Restructuring Officer and shall indemnify him on the same terms as provided to the Company's other officers and directors under the Company partnership agreement or other governing document and applicable state law. Mr. Sharp shall be included as an insured under any insurance policies or coverage available to officers and directors of the Company.

Highland Capital Management, LP
December ____, 2019
Page 5

The Company shall additionally indemnify those persons, and only those persons, serving as executive officers on the same terms as provided to the Company's other officers and directors under the Company's partnership agreement or other governing document and applicable state law, along with insurance coverage under the Company's D&O policies. Any such indemnity shall survive the expiration or termination by either party of this Agreement. Except as provided in this Section and in Section 4, there shall be no indemnification of DSI, its affiliates or the Additional Personnel.

Each and every one of the personnel employed by DSI who works on this particular project, as well as DSI officers, directors, employees and agents (the "DSI Parties") shall not be liable to the Company, or any party asserting claims on behalf of the Company, except for direct damages found in a final determination (not subject to further appeal) by a court of competent jurisdiction to be the direct result of the bad faith, self-dealing or intentional misconduct or gross negligence of DSI.

Section 6 – Conflicts

DSI has made diligent inquiries to determine whether it or any of its professionals have any connections with the Company, its creditors, or other parties in interest in the Chapter 11 Case. Based on that review, the review of DSI's conflict files and responses to inquiries from DSI's professional staff, neither DSI nor its professionals have any known conflicts with the parties in this case. DSI will separately provide its connections to parties in this case and/or their professionals.

Section 7 – No Audit

The Company acknowledges that it is hiring DSI to assist and advise the Company in business planning and operations. DSI's engagement shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of AICPA or other such state and national professional bodies.

Section 8 – Non-Solicitation

The Company agrees not to solicit, recruit or hire any employees or agents of DSI for a period of one year subsequent to the completion and/or termination of this Agreement; provided that the Company shall not be prohibited from (x) making general advertisements for employment not specifically directed at employees of DSI or (y) employees of DSI responding to unsolicited requests for employment.

Highland Capital Management, LP
December ____, 2019
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Section 9 – Survival

The provisions of this Agreement relating to indemnification, the non-solicitation or hiring of DSI employees, and all other provisions necessary to the enforcement of the intent of this Agreement will survive the termination or expiration of this Agreement.

Section 10 – Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of law principles.

Section 11 – Entire Agreement, Amendment

This Agreement contains the entire understanding of the parties relating to the subject matter of this Agreement and supersedes and is intended to nullify any other agreements, understandings or representations relating to the subject of this Agreement. This Agreement may not be amended or modified except in a writing signed by the parties.

If you are in agreement with the foregoing terms and conditions please indicate your acceptance by signing an original copy of this Agreement on the signature lines below, then returning one fully-executed Agreement to DSI's office. The Agreement will become effective upon execution by duly authorized representatives of the respective parties.

Very truly yours,

Bradley Sharp
Development Specialists, Inc.

AGREED AND ACKNOWLEDGED:

Highland Capital Management, L.P.
By: Strand Advisors, Inc., its general partner

By: _____, Independent Director
Date: _____

A. Definitions

- a. Electronically stored information” or “ESI” shall include all electronic files, documents, data, and information covered under the Federal Rules of Civil Procedure.

B. Preservation of ESI - Generally

- a. Debtor acknowledges that they should take reasonable and proportional steps to preserve discoverable information in the party’s possession, custody or control. This includes notifying employees possessing relevant information of their obligation to preserve such data.

C. Preservation of ESI – Specific Forms

- a. For email, Debtor uses Outlook Email on an Exchange server. Veritas Enterprise Vault is used to archive emails. Journaling is and has been in active use since 2007, and all inbound, outbound, and in-system email .communications have been preserved and are not at risk of deletion due to normal document retention practices. Out of an abundance of caution, a copy of the latest email back-up, which was performed two months ago, shall be copied and stored at a secured location.
- b. The file server used by Debtor was backed up approximately one week ago. A copy of this backup shall be created and stored on a portable hard drive at a secured location.
- c. The Sharepoint server used by Debtor was backed up approximately one week ago. A copy of this backup shall be created in a format that maintains all potentially relevant information and stored at a secured location.
- d. The Oracle E-Business Suite (EBS) server used by Debtor was backed up one week ago. A copy of this backup shall be created in a format and stored at a secured location.
- e. The Advent Geneva accounting system used by Debtor was backed up approximately one week ago. Upon reasonable notice, the Committee may submit search criteria to Debtor to run searches in Advent Geneva. Subject to Debtor’s rights to assert objections as provided by Part G herein, Debtor will provide the data resulting from such agreed searches pursuant to Part F herein..
- f. The Siepe Database (data warehouse) used by Debtor was backed up approximately one week ago. A copy of this backup shall be created in a format and stored at a secured location.
- g. For the Box account used by Debtor, to the extent routine data retention practices may result in file deletion, they shall be suspended pending further discussion with the Committee concerning the relevance of such data. Users of the Box account who have the ability to delete files shall be notified of the obligation to suspend deletion of any data stored in Box.
- h. Bloomberg data is archived for five years. Debtor shall work with Bloomberg client services to preserve a copy of all such archived material, which shall be stored at a secured location, or otherwise extend the backup window in which Bloomberg preserves the data by reasonable time to be agreed by the parties.

- i. Files may be saved locally on laptops/work computers used by employees of Debtor. This practice is discouraged, but may result in the creation of relevant ESI on local systems in a manner that will not be replicated elsewhere. Debtor shall therefore cease the deletion of data (*i.e.*, wiping) of any employee-assigned computer hard drives, such as for departing employees. Debtor shall furthermore instruct current employees not to delete files stored locally on their assigned computers.

D. Not Reasonably Accessible Documents

- a. Absent an order from the Court upon a showing of good cause, a Party from whom ESI has been requested shall not be required to search for responsive ESI from sources that are not reasonably accessible without undue burden or cost. The following types of data stores are presumed to be inaccessible and are not subject to discovery, and need not be collected or preserved, absent a particularized need for the data as established by the facts and legal issues of the case:
 - i. Deleted, slack, fragmented, or other data only accessible by forensics;
 - ii. Random access memory (RAM), temporary files, or other ephemeral data that are difficult to preserve without disabling the operating system; and
 - iii. On-line access data such as temporary internet files, history, cache, cookies, and the like.
- b. To conduct collections in a focused and efficient manner, the Parties also agree to exclude the following file types from collection: Standard system file extensions including, but not limited to, BIN, CAB, CHK, CLASS, COD, COM, DLL DRV, EXE, INF, INI, JAVA, LIB, LOG, SYS and TMP and other file extensions and directories that likely do not contain user generated content such as files identified by hash value when compared to the National Software Reference Library reference data set (RDS Hash), a sub-project of the National Institute of Standards and Technology (“NIST”), of known traceable system and application files. This process is commonly referred to as “De-NISTing.”

E. Collection and Search Methodology

- a. Searches for emails in Debtor’s custody shall be conducted by DSI on Debtor’s Veritas Enterprise Vault storage using an unrestricted account at the earliest opportunity, but in no event later than [date]. DSI shall use an add-on component called Discovery Assistant, which enables searches based on email properties, such as senders, recipients, and dates. Discovery Assistant also permits text searching of email contents and the contents of electronic file attachments, although not pictures of text (*e.g.*, scanned PDFs). Debtor did not employ employee message or file encryption that would prevent reasonable operation of the Discovery Assistant search capabilities.
- b. The results of email searches shall be produced to the Committee pursuant to Part F below, subject to completion of any review for privilege or other purposes contemplated by this Agreement.
- c. A snapshot copy of Debtor databases (Oracle, Siepe) shall be created in a format to be specified later by agreement with the Committee per Part (C)(d), (f), above.

Prior to any production of responsive data from such a structured database Debtor will first identify the database type and version number, provide the vendor-originated database dictionary, if any, (identifying all tables in the database, their fields, the meaning of those fields, and any interrelation among fields) and any user manuals, or any other documentation describing the structure and/or content of the database, and a list of all reports that can be generated from the database. The list of reports shall be provided in native Excel (.xls or .xlsx) format.

- d. The Geneva system is highly proprietary and shall not be collected, but the Committee will be given reasonable access to that system per Part C(e), above.
- e. Debtor and Committee will meet and confer to discuss the scope of any necessary searches on the Box account.
- f. Debtor file server contents, where requested by the Committee, shall be produced pursuant to Part F below.
- g. Debtor shall propose a format for producing Sharepoint data. The Committee agrees that it is not necessary to reproduce the interface used by Debtor in the ordinary course of business for Sharepoint.

F. Format of Documents Produced

- a. Non-database ESI shall be produced as black and white Group 4 TIFF files, with a resolution of 300 DPI. Page size shall be 8.5 x 11 inches unless, in the reasonable judgment of the Producing Party, a particular item requires a different page size, and original document orientation shall be maintained (i.e., portrait to portrait and landscape to landscape). A Requesting Party may, in good faith and reasonable judgment, request a color copy of a production document if it is necessary to convey the relevant and responsive information. Such color copies may be produced as single page JPG (JPEG) image files. The Requesting Party will bear the costs for color images.
- b. The files shall be accompanied by a metadata load file, in a single standard format to be requested by the Receiving Party prior to any production (e.g., Opticon, Summation DII, or the like) showing the Bates number of each page, the appropriate unitization of the documents, and the entire family range. The Parties agree to meet and confer regarding the requested standard format prior to production.
- c. The files shall be accompanied by a .DAT text file including the delimited fields identified in the Metadata List (below). No Party will have any obligation to manually generate information to provide the fields identified in the Metadata List.
- d. The Producing Party reserves the right to make hard copy documents available for inspection and copying pursuant to Federal Rule of Civil Procedure 34.
- e. In the event that a Party identifies hard copy documents for production, hard copy paper documents shall be scanned and will include, to the extent feasible, the following fields in the .DAT text file: PRODBEG, PRODEND, PAGECOUNT, FULLTEXT, and CUSTODIAN. The Parties agree to share equally in the cost of scanning hard copy documents.
- f. For any documents that were scanned from hard copy paper documents, the Parties will produce images of hard copy documents unitized to the extent the

original documents appeared to be units in physical form, with attachments following parents, and with information that identifies the holder (or container) structure, to the extent such structure exists and it is reasonable to do so. The Producing Party is not required to OCR (Optical Character Recognition) hard copy documents. If the Receiving Party requests that hard copy documents be OCR'ed, the Receiving Party shall bear the cost of such request, unless the Parties agree to split the cost so that each has an OCR'ed copy of the documents.

- g. For ESI that the Producing Party produces in TIFF or JPEG format, the Producing Party shall electronically "burn" a legible, unique Bates number onto each page. The Bates number shall, to the extent reasonably possible: (1) identify the Producing Party; (2) maintain a constant length of nine numeric digits (including 0-padding) across the entire production; (3) contain only alphanumeric characters, no special characters or embedded spaces; and (4) be sequential within a given document. If the Bates number conceals, interferes with, or otherwise obscures any information from the source document, the Producing Party, at the request of the Receiving Party, shall produce a copy that is not obscured.
- h. For ESI that the Producing Party produces in TIFF format, if the Producing Party is producing the ESI subject to a claim that it is protected from disclosure under any confidentiality order entered in this matter, the Producing Party shall electronically "burn" the appropriate confidentiality designation onto each page of the document. If the designation conceals, interferes with, or otherwise obscures any information from the source document, the Producing Party, at the request of the Receiving Party, shall produce a copy that is not obscured.
- i. The Parties agree to produce e-mail families intact absent a privilege or work product claim, so long as each document contains responsive information; for all documents that contain a responsive, non-privileged attachment, the following fields will be produced (if available) as part of the metadata load file to indicate the parent child or parent/sibling relationship:
 - i. Production Bates begin
 - ii. Production Bates end
 - iii. Production Bates begin attachment
 - iv. Production Bates end attachment

Notwithstanding the aforementioned, all parties acknowledge that Debtor's Veritas Enterprise Vault system does not have the ability to search for the family members of responsive documents, and that Debtor does not have an obligation to manually search for non-responsive family members of otherwise responsive documents.

- j. Unless otherwise agreed, all dynamic date and time fields, where such fields are processed to contain a value, and all metadata pertaining to dates and times, will be standardized to Universal Coordinated Time (UTC) or Universal Coordinated Time + 1 (UTC+1) [TBD]. The Parties understand and acknowledge that such standardization affects only dynamic fields and metadata values and does not affect, among other things, dates and times that are hard-coded text within a file. Dates and times that are hard-coded text within a file (for example, in an email thread, dates and times of earlier messages that were converted to body text when subsequently replied to or forwarded; and in any file type, dates and times that are

typed as such by users) will be produced as part of the document text in accordance with the provisions herein.

- k. Exceptions to the Production Format
- l. Excel spreadsheets shall be produced in native application format, unless redactions are required. The Producing Party will make reasonable efforts to provide a TIFF image of a slip sheet with the Bates number of documents produced natively in its production. The corresponding native file shall be named by using the same Bates number identified on the placeholder TIFF image. Any Excel spreadsheet that requires redaction will be produced in TIFF format only. Certain types of databases are dynamic in nature and may contain information that is irrelevant. These files are sometimes large and would, if rendered to TIFF images completely, produce thousands of pages that would have little utility to a reviewer without the associated database.
- m. To the extent information from a structured data repository, such as a database, is requested, responsive information will be produced via a report or export of such data to an appropriate program that is agreeable to the requesting Party. The Parties agree to meet and confer before such data is exported.

G. Production Format Shall Not Alter Authenticity, Admissibility, or Privilege Status

- a. No Party shall object that ESI produced pursuant to this Protocol is not authentic by virtue of the ESI having been converted to TIFF. The Parties otherwise reserve all rights regarding their ability to object to the authenticity of documents.
- b. Nothing in this Protocol shall be construed to affect in any way the rights of any Party to make any objection as to the production, discoverability, admissibility, or confidentiality of documents and ESI.
- c. Nothing in this Protocol shall constitute a waiver by any Party of any claim or privilege or other protection from discovery.
- d. Nothing in this Protocol shall be interpreted to in any way limit a Producing Parties right and ability to review documents for responsiveness prior to production.
- e. Nothing in the Protocol shall require disclosure of irrelevant information or relevant information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege or immunity.

Metadata List

File Name	Field Description	Sample Values
BegBates	Bates number for the first page of the document	ABC-0000001
EndBates	Bates number for the last page of the document	ABC-0000002
BegAttach	Bates number for the first page of parent document	ABC-0000001
EndAttach	Bates number for the last page of last attachment	ABC-0000005
Pages	Number of printed pages of the document	2

Global Custodian	Custodian name produced in format: Lastname, Firstname.	Smith, Jane; Taylor, Michael
Confidentiality	Indicates if the document has been designated as “Confidential” or “Highly Confidential” pursuant to the applicable Protective Order	Confidential; Highly Confidential
Redacted	Descriptor for documents that have been redacted: “Yes” for redacted documents; “No” for non-redacted documents	Yes
Email Subject	Subject line of Email or	Text of the subject line
Document Subject	Subject value of documents	Text of the subject line
Date Sent	Date email sent	mm/dd/yyyy
Time Sent	Time email sent	hh:mm:ss AM
Date Last Modified	Date document was last modified	mm/dd/yyyy
Time Last Modified	Time document was last modified	hh:mm:ss AM
Date Created	Date document was first created	mm/dd/yyyy
To	All SMTP address of email recipients, separated by a semi-colon	Larry.murphy@email.com
From	All SMTP address of email author	Bart.cole@email.com
CC	All SMTP address of email “CC” recipients, separated by a semi-colon	Jim.James@gmail.com; bjones@yahoo.com
BCC	All SMTP address of email “BCC” recipients, separated by a semi-colon	mjones@gmail.com
Attach	The file name(s) of the documents attached to emails or embedded in files. Multiple files should be delimited by a semicolon	Filename.doc; filename2.doc
Title	The Title property of a file.	Title
Author	The Author property of a file	John Doe
MessageID	The email message ID	
FILENAME	The original name of the file excluding the path	C:\My Documents\letter.doc
DocType	Email, letter, memo, invoice, etc., if available	
Extension	The file extension	.doc

FileType	The actual file type of the document (Word, Excel, etc.) regardless of the file extension	
HashValue	MD5 Hash value of original file	
FilePath	The directory structure of the original file.	C:\My Documents\ letter.doc
PathToNative	The relative path to a produced native document	C:\VOL001\BATES000000001.xls
PathToText	The relative path to the accompanying text file	C:\VOL001\BATES000000001.txt
Volume	The production number or reference from the production	
Other Custodian	To the extent global deduplication is used, the field indicates the other custodians who also were in possession of the document at the time of collection	

I. **Definitions**

- A. “Court” means the United States Bankruptcy Court for the Northern District of Texas.
- B. “NAV” means (A) with respect to an entity that is not a CLO, the value of such entity’s assets less the value of its liabilities calculated as of the month end prior to any Transaction; and (B) with respect to a CLO, the CLO’s gross assets less expenses calculated as of the quarter end prior to any Transaction.
- C. “Non-Discretionary Account” means an account that is managed by the Debtor pursuant to the terms of an agreement providing, among other things, that the ultimate investment discretion does not rest with the Debtor but with the entity whose assets are being managed through the account.
- D. “Related Entity” means collectively (A)(i) any non-publicly traded third party in which Mr. Dondero, Mr. Okada, or Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor) has any direct or indirect economic or ownership interest, including as a beneficiary of a trust; (ii) any entity controlled directly or indirectly by Mr. Dondero, Mr. Okada, Mr. Grant Scott, or Mr. John Honis (with respect to Messrs. Okada, Scott and Honis, only to the extent known by the Debtor); (iii) MGM Holdings, Inc.; (iv) any publicly traded company with respect to which the Debtor or any Related Entity has filed a Form 13D or Form 13G; (v) any relative (as defined in Section 101 of the Bankruptcy Code) of Mr. Dondero or Mr. Okada each solely to the extent reasonably knowable by the Debtor; (vi) the Hunter Mountain Investment Trust and Dugaboy Investment Trust; (vii) any entity or person that is an insider of the Debtor under Section 101(31) the Bankruptcy Code, including any “non-statutory” insider; and (viii) to the extent not included in (A)(i)-(vii), any entity included in the listing of related entities in **Schedule B** hereto (the “Related Entities Listing”); and (B) the following Transactions, (x) any intercompany Transactions with certain affiliates referred to in paragraphs 16.a through 16.e of the Debtor’s cash management motion [Del. Docket No. 7]; and (y) any Transactions with Charitable DAF Fund, L.P. (provided, however, that additional parties may be added to this subclause (y) with the mutual consent of the Debtor and the Committee, such consent not to be unreasonably withheld).
- E. “Stage 1” means the time period from the date of execution of a term sheet incorporating the protocols contained below the (“Term Sheet”) by all applicable parties until approval of the Term Sheet by the Court.
- F. “Stage 2” means the date from the appointment of a Board of Independent Directors at Strand Advisors, Inc. until 45 days after such appointment, such appointment being effective upon Court approval.
- G. “Stage 3” means any date after Stage 2 while there is a Board of Independent Directors at Strand Advisors, Inc.
- H. “Transaction” means (i) any purchase, sale, or exchange of assets, (ii) any lending or borrowing of money, including the direct payment of any obligations of another entity, (iii) the satisfaction of any capital call or other contractual

requirement to pay money, including the satisfaction of any redemption requests, (iv) funding of affiliates and (v) the creation of any lien or encumbrance.

- I. "Ordinary Course Transaction" means any transaction with any third party which is not a Related Entity and that would otherwise constitute an "ordinary course transaction" under section 363(c) of the Bankruptcy Code.
- J. "Notice" means notification or communication in a written format and shall include supporting documents necessary to evaluate the propriety of the proposed transaction.

II. Transactions involving the (i) assets held directly on the Debtor's balance sheet or the balance sheet of the Debtor's wholly-owned subsidiaries, including Jefferies Prime Account, and (ii) the Highland Select Equity Fund, L.P., Highland Multi Strategy Credit Fund, L.P., and Highland Restoration Capital Partners

A. **Covered Entities:** N/A (See entities above).

B. Operating Requirements

- 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
- 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.
- 3. Third Party Transactions (All Stages)
 - a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the

Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. Redemption requests payable to Related Entities will be held in escrow and will not prevent the winding up or liquidation of any fund or entity.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

III. Transactions involving entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above)

A. **Covered Entities:** See Schedule A hereto. Schedule A includes or will include all entities the Debtor manages and in which the Debtor holds a direct or indirect interest (other than the entities discussed in Section I above).¹

B. Operating Requirements

- 1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
- 2. Related Entity Transactions
 - a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.

¹ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

(2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.

3. Third Party Transactions (All Stages)

- a) Except as set forth in (b) and (c) below, Transactions in excess of \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require three business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- c) The Debtor may satisfy margin calls and short covers without providing the Committee advance notice if the exigencies do not allow advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable.

C. **Weekly Reporting:** The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

IV. Transactions involving entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

A. **Covered Entities:** See **Schedule A** hereto. **Schedule A** includes or will include all entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest.²

B. **Operating Requirements**

1. Ordinary Course Transactions do not require Court approval (All Stages).
 - a) Stage 1 and Stage 2: ordinary course determined by the CRO.
 - b) Stage 3: ordinary course determined by the Debtor.
2. Related Entity Transactions

² The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

- a) Stage 1 and Stage 2: Transactions with Related Entities require prior approval of CRO and five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) Stage 3:
 - (1) Transactions with Related Entities greater than \$1,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require five business days advance notice to the Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - (2) Transactions with Related Entities greater than \$2,000,000 (either individually or in the aggregate basis on a rolling 30 day period) require Court approval, which the Committee agrees may be sought on an expedited basis.
3. Third Party Transactions (All Stages):
- a) Except as set forth in (b) and (c) below, any Transaction that decreases the NAV of an entity managed by the Debtor in excess of the greater of (i) 10% of NAV or (ii) \$3,000,000 requires five business days advance notice to Committee and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - b) The Debtor may satisfy any redemption requests from entities that are not Related Entities without advance notice so long as the Debtor provides notice of such Transactions to the Committee as soon as reasonably practicable. The Debtor will provide the Committee with five business days advance notice of any redemption requests made by and payable to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
 - c) The Debtor may take such steps as may be reasonably necessary to winddown any managed entity and make distributions as may be required in connection with such winddown to any required parties. The Debtor will provide the Committee with five business days advance notice of any distributions to be made to a Related Entity, and if the Committee objects, the burden is on the Debtor to seek Court approval, which the Committee agrees may be sought on an expedited basis.
- C. **Weekly Reporting**: The Debtor will provide the Committee with weekly reports showing all Transactions under this category.

V. Transactions involving entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

- A. Covered Entities: See **Schedule A** hereto. **Schedule A** includes or will include all entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest.³
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VI. Transactions involving entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

- A. Covered Entities: See **Schedule A** hereto. **Schedule A** includes or will include all entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest.⁴
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

VII. Transactions involving Non-Discretionary Accounts

- A. Covered Entities: See **Schedule A** hereto. **Schedule A** includes or will include all non-discretionary accounts.⁵
- B. Ordinary Course Transactions (All Stages): N/A
- C. Operating Requirements: N/A
- D. Weekly Reporting: Debtor will provide weekly reports of all cross-held asset Transactions, i.e. Transactions in which the Debtor or a Related Entity also holds a direct or indirect interest.

³ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

⁴ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

⁵ The Debtor is continuing to review the Related Entities List and to determine whether any additional parties or entities should be included on Schedule A. The Debtor will update Schedule A as soon as reasonably practicable to the extent necessary.

VIII. Additional Reporting Requirements – All Stages (to the extent applicable)

- A. DSI will provide detailed lists and descriptions of internal financial and operational controls being applied on a daily basis for a full understanding by the Committee and its professional advisors three (3) business days in advance of the hearing on the approval of the Term Sheet and details of proposed amendments to said financial and operational controls no later than seven (7) days prior to their implementation.
- B. The Debtor will continue to provide weekly budget to actuals reports referencing their 13-week cash flow budget, such reports to be inclusive of all Transactions with Related Entities.

IX. Shared Services

- A. The Debtor shall not modify any shared services agreement without approval of the CRO and Independent Directors and seven business days' advance notice to counsel for the Committee.
- B. The Debtor may otherwise continue satisfying its obligations under the shared services agreements.

X. Representations and Warranties

- A. The Debtor represents that the Related Entities Listing included as **Schedule B** attached hereto lists all known persons and entities other than natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- B. The Debtor represents that the list included as **Schedule C** attached hereto lists all known natural persons included in the definitions of Related Entities covered by Section I.D parts A(i)-(vii) above at the time of the execution of the Term Sheet.
- C. The Debtor represents that, if at any time the Debtor becomes aware of any person or entity, including natural persons, meeting the definition of Related Entities covered by Section I.D parts A(1)-(vii) above that is not included in the Related Entities Listing or Schedule C, the Debtor shall update the Related Entities Listing or Schedule C, as appropriate, to include such entity or person and shall give notice to the Committee thereof.

Schedule A⁶

Entities the Debtor manages and in which the Debtor holds a direct or indirect interest

1. Highland CLO Funding, Ltd. (0.63% Ownership Interest)
2. Dynamic Income Fund (0.26% Ownership Interest)

Entities that the Debtor manages but in which the Debtor does not hold a direct or indirect interest

1. Highland Prometheus Master Fund L.P.
2. NexAnnuity Life Insurance Company
3. PensionDanmark
4. Highland Argentina Regional Opportunity Fund
5. Longhorn A
6. Longhorn B
7. Collateralized Loan Obligations
 - a) Rockwall II CDO Ltd.
 - b) Grayson CLO Ltd.
 - c) Eastland CLO Ltd.
 - d) Westchester CLO, Ltd.
 - e) Brentwood CLO Ltd.
 - f) Greenbriar CLO Ltd.
 - g) Highland Park CDO Ltd.
 - h) Liberty CLO Ltd.
 - i) Gleneagles CLO Ltd.
 - j) Stratford CLO Ltd.
 - k) Jasper CLO Ltd.
 - l) Rockwall DCO Ltd.
 - m) Red River CLO Ltd.
 - n) Hi V CLO Ltd.
 - o) Valhalla CLO Ltd.
 - p) Aberdeen CLO Ltd.
 - q) South Fork CLO Ltd.
 - r) Legacy CLO Ltd.
 - s) Pam Capital
 - t) Pamco Cayman

Entities that the Debtor does not manage but in which the Debtor holds a direct or indirect interest

1. Highland Opportunistic Credit Fund
2. Highland Healthcare Opportunities Fund f/k/a Highland Long/Short Healthcare Fund
3. NexPoint Real Estate Strategies Fund
4. Highland Merger Arbitrage Fund
5. NexPoint Strategic Opportunities Fund
6. Highland Small Cap Equity Fund
7. Highland Global Allocation Fund

⁶ NTD: Schedule A is work in process and may be supplemented or amended.

8. Highland Socially Responsible Equity Fund
9. Highland Income Fund
10. Stonebridge-Highland Healthcare Private Equity Fund (“Korean Fund”)
11. SE Multifamily, LLC

Entities that the Debtor does not manage and in which the Debtor does not hold a direct or indirect interest

1. The Dugaboy Investment Trust
2. NexPoint Capital LLC
3. NexPoint Capital, Inc.
4. Highland IBoxx Senior Loan ETF
5. Highland Long/Short Equity Fund
6. Highland Energy MLP Fund
7. Highland Fixed Income Fund
8. Highland Total Return Fund
9. NexPoint Advisors, L.P.
10. Highland Capital Management Services, Inc.
11. Highland Capital Management Fund Advisors L.P.
12. ACIS CLO Management LLC
13. Governance RE Ltd
14. PCMG Trading Partners XXIII LP
15. NexPoint Real Estate Partners, LLC f/k/a HCRE Partners LLC
16. NexPoint Real Estate Advisors II LP
17. NexPoint Healthcare Opportunities Fund
18. NexPoint Securities
19. Highland Diversified Credit Fund
20. BB Votorantim Highland Infrastructure LLC
21. ACIS CLO 2017 Ltd.

Transactions involving Non-Discretionary Accounts

1. NexBank SSB Account
2. Charitable DAF Fund LP

Schedule B

Related Entities Listing (other than natural persons)

Schedule C

1. James Dondero
2. Mark Okada
3. Grant Scott
4. John Honis
5. Nancy Dondero
6. Pamela Okada
7. Thomas Surgent
8. Scott Ellington
9. Frank Waterhouse
10. Lee (Trey) Parker

James P. Seery, Jr.

New York, NY



James P. Seery, Jr. is a high yield and distressed investing professional who was most recently a Senior Managing Director and co-Head of Credit at Guggenheim Securities LLC, where he is responsible for helping direct the development of a leveraged finance and credit distribution business. Prior to joining Guggenheim, Mr. Seery was the President and a senior investing partner of River Birch Capital, LLC, a \$1.3bn global credit fund manager. In that role, he developed and led many of the firm's most profitable credit investments. Mr. Seery is a licensed attorney and was formerly a partner and co-Head of the Sidley Austin LLP New York Corporate Reorganization and Bankruptcy Group, and he also recently served as a Commissioner on The American Bankruptcy Institute's Commission to Study the Reform of Chapter 11.

Before his joining Sidley Austin, Mr. Seery was a Managing Director and the Global Head of Lehman Brothers' Fixed Income Loan business. In that position, he was responsible for managing the Lehman Brothers' Fixed Income investment grade and high yield loan businesses, including underwriting commitments, distribution, hedging, trading and sales (including CLO manager relationships), portfolio management, and restructuring. Mr. Seery was also a member of the Lehman Brothers' Fixed Income Operating Committee and Global Credit Products Operating Committee as well as the High Yield Commitment and New Business Committees. From 2000 to 2004, Mr. Seery ran Lehman Brothers' restructuring and workout businesses with responsibility for management of distressed corporate debt investments, and in 2008 he was a key member of the small team that successfully sold Lehman to Barclays.

Mr. Seery was selected as one of the Top Restructuring Lawyers in the U.S. Under 40 by *Turnarounds and Workouts* in 1999. Mr. Seery graduated in 1990 from New York Law School, *magna cum laude*, where he was an editor of the Law Review and Colgate University in 1984. He was a member of the Board of Directors of the Loan Syndications and Trading Association from 2006 to 2008 and a member of the INSOL International Lenders Group from 2016-2017.

JAMES P. SEERY, JR.
795 Columbus Ave., 12A
New York, New York 10025
631-804-2049 · jpseeryjr@gmail.com

Experience

Guggenheim Securities LLC, New York, New York Aug. 2017-Nov. 2019
Senior Managing Director, Co-Head Credit

- Responsible for developing leveraged finance and credit portfolio advisory businesses
- Management of teams of leveraged finance bankers and trading and sales professionals

River Birch Capital, LLC, New York, New York April 2012-July 2017
President, River Birch Capital, LLC

- President and senior investing partner at New York based \$1.3bn global long-short credit fund focused on corporate credit from investment grade to distressed
- Responsible for originating, executing and managing stressed and distressed credit investments with a team of 6 investing partners and 5 analysts and traders
- Led finance and operations team with CFO/CCO; firm grew from approx. \$200mm in 2012 to \$1.3bn in 2017

Sidley Austin LLP, New York, New York May 2009-April 2012
Co-head New York Corporate and Reorganization Group

- Built and managed a creditor focused restructuring group as part of an international company side practice in a nearly 2000 attorney firm
- Represented banks, corporations, hedge funds, and structured investment vehicles in a variety of restructuring, financing and litigation matters

Lehman Brothers, New York, New York April 1999-May 2009
Global Head Fixed Income Loans

- Managing Director responsible for managing the global fixed income loan business, including investment grade and high yield commitments, global distribution, hedging, trading and sales, CLO origination, portfolio management, and restructuring; managed underwritten loan commitments and teams of credit sales and trading professionals as well as structuring, portfolio management and work-out specialists
- Member Fixed Income Operating Committee, Global Credit Products Operating Committee, and High Yield Commitment and New Business Committees
- Responsible for originating, structuring and managing proprietary distressed debt investments, rescue financings, and restructurings 1999-2004
- Key member of team that negotiated and completed the sale of Lehman Brothers to Barclays Sept. 2008; remained at Barclays through April 2009

Phillips Nizer, Garden City, New York May 1995-April 1999
Senior Associate in corporate reorganization group of boutique New York City law firm

Cadwalader, Wickersham & Taft, New York, New York May 1989-May 1995
Associate in corporate reorganization group of New York City based international law firm

Education

New York Law School, New York, New York, J.D., *magna cum laude*, Editor Law Review 1990
Colgate University, Hamilton, New York, B.A. History 1984

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Experience

Director, River Birch International, Ltd. Board	2015-2017
Director, Camphill Foundation Board	2017-2019
Member, INSOL International Lenders Group Board	2016-2017
Commissioner, ABI Commission to Study Reform of Ch. 11	2012-2015
Director, Loan Syndications and Trading Association	2006-2008

Selected River Birch Sample Investments

Cash America International 5.75% Senior Unsecured Notes due 2018 and Litigation Claim – Developed and led execution of successful note purchase and make-whole litigation strategy based on company's improper spin of payday lending business; U.S. District Court published decision in note holders' favor led to settlement

Chesapeake Energy Corp 6.775% Senior Notes due 2019 Litigation Claims – Developed and led execution of successful note purchase and make-whole litigation strategy based on company's improper call of notes; ultimately prevailed in \$450mm judgment discussed in published Second Circuit and U.S. District Court decisions

Caesars Entertainment Resort Properties 8% 1st Lien Notes due 2020; 11% 2^d Lien Notes due 2021 – Developed and led (with senior investment analyst partner) execution of successful bankruptcy investment strategy focused on lower beta part of the capital structure of bankrupt casino operator; investment designed for high return with significant downside protection

Intelsat Jackson Holdings 9.5% Senior Secured Notes due 2022 – Developed and led (with senior investment analyst partner) execution of successful new issue stressed secured note investment strategy; responsible for structuring and tightening covenant package and increasing size of offering after determining that potential litigation threat was low risk; responsible for recommending ICF 12.5% note investment in the low 80s in February 2018

Motors Liquidation Company GUC Trust Publicly Traded Units – Developed and led successful investment strategy in publicly traded bankruptcy liquidation units (GM); took the opposite side of sell-side analyst recommendations and engineered a successful settlement in high return/low downside position

Hypo Alpe Adria Bank (Hetar) Senior Guaranteed Notes – Developed and led (with senior investment analyst partner) execution of successful investment strategy in insolvent Austrian bank with notes guaranteed by an Austrian State

Presidio Inc. 10.25% Senior Notes due 2023 – Developed and led execution of successful investment strategy to purchase newly developed mezzanine part of the capital structure on struggling new issue deal; ultimately sponsor purchased the mezzanine but aggressive structuring and bidding for the mezzanine tranche led to outsized allocation of new notes

Nortel Networks Ltd. 6.875% Senior Notes due 2023 – Developed and led (with senior investment analyst partner) execution of bankruptcy liquidation strategy based on litigation and ultimate leverage of Canadian liquidating estate

Selected Speaking Engagements

American Law Institute/ NYU Law – Credit Markets and Corporate Reorganization, New York City, April 2017
Moderator, *Auctions and Asset Sales In and Out of Bankruptcy*

University of Texas Law/American Bankruptcy Institute -- Emerging Valuation Issues in Bankruptcy, Las Vegas, March 2017

Panelist, *Determining Valuation and the Fulcrum Security*

Panelist, *Distressed Investments Strategies*

NYU Law – Claim Priority Roundtable, New York City, September 2016

Panelist, *Allocating Value in and Out of Bankruptcy*

University of Texas Law/ABI – Emerging Valuation Issues in Bankruptcy, Las Vegas, March 2016

Panelist, *ABI Commission Report Proposed Amendments and Their Impact on Valuation*

The M&A Advisor – Distressed Investing Summit, Palm Beach, January 2016

Panelist, *Using Options to Bridge Value Gaps*

NYU Law – Seligman Bankruptcy and Business Reorganization Workshop, New York City, September 2015

Panelist, *Valuation Approaches and Methodologies*

Skadden Arps/Colgate University – Law and Finance Summit, New York City, November 2014

Presenter, *Recent Developments in Bankruptcy and Distressed Debt*

Dubel & Associates, L.L.C.

John S. Dubel
Board of Directors Experience

- **Purdue Pharma Inc. – July 2019 to Present** - Independent Board Member and Chair of the Special Committee of Directors

In addition to being a member of the Board of Directors of Purdue Pharma Inc., I am the Chair of the Special Committee of Independent Directors charged with overseeing the investigation of relationships between Purdue and Purdue owners, the Sackler family.

- **WMC Mortgage, LLC – Indirect Subsidiary GE – July 2018 to December 2019** - Independent Board Member and Chair of the Special Independent Committee of Directors

WMC's chapter 11 plan was recently confirmed and WMC will emerge from Chapter 11 in early December 2019. I am the Chair of the Special Independent Committee of Independent Directors for this indirect subsidiary of GE. The Special Committee was tasked with reviewing the relationship between the insolvent WMC and GE and resolving its insolvency issues through a court supervised chapter 11 proceeding. I was the lead person responsible for negotiations with the parent concerning the level of support that the parent was required to provide and worked with our creditors to negotiate a resolution amongst all parties.

- **Werner Co. – January 2013 to Present – Sole Independent Director**

Werner is a global leader in access equipment, secure storage, light duty construction and fall protection products with operations across all geographies. A consortium of private equity investors bought the assets out of a bankruptcy proceeding in 2007. I was asked to serve on the Board as the sole Independent Director by the largest shareholder. Werner more than doubled the size of its business, diversified its product offering and substantially improved its EBITDA prior to its sale in July 2017. As an independent director, working with one other director, we lead the effort in the sale process that achieved an additional \$180 million increase in the sale price of the company for its distressed investors. I am currently the lead director responsible for the resolution of post-sale purchase price adjustments.

- **Old PSG f/k/a Performance Sports Group – August 2017 to December 2017**

Asked to serve on the Board, by the Official Equity Committee, after the sale of Performance Sports Group's assets. My role was to oversee the plan of reorganization process to drive to a smooth confirmation.

Dubel & Associates, L.L.C.

- **FXI Holdings** – September 2010 to October 2017 – Independent Director

FXI is a leading producer of engineered polyurethane foam solutions serving the largest customers in the largest markets. It has the broadest customer and consumer reach of any North American foam producer. FXI's assets were purchased during a bankruptcy proceeding in 2009. I was asked to serve on the board of directors by one of the two private equity firms that owned FXI. Shortly after joining the Board, I was asked to Chair a Special Committee of the Board to manage certain litigation and government investigations related to alleged anti-trust infractions. FXI was the subject of over 50 different class action and individual litigations alleging damages in excess of \$3 billion. Over a period of several years, FXI was able to settle all of its litigation for a minor fraction of the alleged damages and all investigations by the government were dropped. During this time, the company's performance improved in a consistent manner with EBITDA more than doubling. Once these litigations were settled, the company was marketed and ultimately sold in October 2017.

- **ResCap Liquidating Trust** – December 2013 to March 2017 – Chairman of the Board - December 2013 to late 2015

After the ResCap chapter 11 plan was confirmed, I served on the Board of the ResCap Liquidating Trust, as FGIC's representative, to guide the wind down of the remaining assets and prosecute claims in excess of \$4 billion against institutions that caused harm to ResCap. During this time, I also served as Liquidating Trustee while we brought on board a new in-house lawyer to prosecute these claims and transitioned this individual into the permanent Liquidating Trustee role.

- **FGIC Corporation and FGIC** - December 2008 to April 2014 – Chairman of the Board during various parts of that time frame – while serving as CEO
- **Barneys New York** – February 2012 to May 2012 – Sole Independent Director

After Barneys' 2007 sale to Istithmar World, the Government of Dubai's private investment fund, Barneys was impacted by the recession in the late 2000's. I was brought in to serve as the sole independent director during the out of court restructuring process which resulted in a consensual change of control for Barneys to its distressed investor creditors.

- **The Leslie Fay Companies** – April 1993 to May 1996 – while serving as the EVP of Restructuring and CFO
- Mr. Dubel has also served as a member and chairperson of various ad hoc and official creditor committees.

Dubel & Associates, L.L.C.

John S. Dubel
Key Management Experience

- **Noble Environmental Power** – Restructuring Advisor to the Company - 2018

Noble was the owner of two utility scale wind power plants in upstate New York which were in default on their debt instruments. Working closely with Noble's investment bankers we were able to complete a sale of these plants while keeping the companies out of chapter 11 and returning net sale proceeds to its shareholders.

- **SunEdison, Inc.** – Chief Executive Officer and Chief Restructuring Officer – 2016-2017

SunEdison was the largest global renewable energy development company prior to its filing for chapter 11 in April 2016. SunEdison had over \$10 billion of liabilities and 4,500 employees spread across operations in over 50 countries on 6 continents. A decline in energy prices along with loss of faith in management by investors and numerous litigations filed against the company caused the closing of the capital markets for SunEdison which led to its filing for chapter 11. I was brought in as a requirement of the DIP agreement. SunEdison's assets were sold in a manner to preserve the greatest value for its creditors. I am currently assisting the wind down SunEdison entity as requested.

- **Financial Guaranty Insurance Company** – Chairman and Chief Executive Officer – 2008-2014

FGIC was the third largest monoline bond insurer, insuring in excess of \$300 billion of public finance instruments, RMBS securitizations and CDS contracts with over \$4 billion of capital. After the collapse of the residential mortgage market in the 2007/08 timeframe, FGIC lost its AAA ratings and experienced tremendous losses on its insurance contracts. This led to an insolvency proceeding under NY State insurance law with an innovative resolution through a pre-arranged rehabilitation plan. This enabled it to continue to pay its policy holders in a timely manner.

- **Residential Capital** – Co-Chairman of the Official Creditors Committee – 2012-2013

ResCap, a wholly owned subsidiary of Ally Financial, was one of the largest mortgage originators in the US. FGIC was its 2nd largest creditor and after its chapter 11 filing in May of 2012, I was appointed as the Co-Chair of ResCap's Official Unsecured Creditors Committee. As the lead negotiator for the UCC, the UCC was able to negotiate an increase in the contribution to the plan of reorganization by the parent, Ally, from approximately \$650 million to \$2.1 billion. This contribution settled all of the litigation between Ally and Rescap and enabled ResCap to emerge from chapter 11.

Dubel & Associates, L.L.C.

- **Anchor Glass Container Corporation** – Chief Restructuring Officer – 2005-2006

Anchor Glass was the 3rd largest manufacturer of glass containers in the US, with Anheuser Busch and Snapple as its largest customers, where it provided “just in time” deliveries to enable its customers plants to operate 24/7. Its third trip through chapter 11 resulted from poor contract pricing and high legacy costs. I worked closely with the CEO to renegotiate these contracts and reduce the cost structure which enabled it to emerge from chapter 11 as a viable business which continues to operate today.

- **RCN Corporation** – President and Chief Operating Officer - 2004

RCN was a Bundled 3-product cable provider offering integrated voice, video and data products in the US Northeast, Midwest and West Coast markets with over \$1.7 billion of debt incurred during its build out period. Working with the Lead Director, a pre-arranged chapter 11 plan was negotiated with all of its creditor constituencies to enable it to emerge as a profitable business in its markets where it continues to operate today.

- **Cable & Wireless America** – Chief Executive Officer – 2003-2004

C&W America was a premier hosting business with 14% share of the US market and world class a Tier 1 IP Network. When its British parent company experienced financial difficulties, they attempted to abandon C&W America which caused stress for its major customers, including Yahoo, Google and others. A plan was put in place, though a chapter 11 process, to dramatically reduce its daily cash burn and sell the entity while maintaining its customer base.

- **Acterna Corporation** – Chief Restructuring Officer - 2003

Acterna was a multi-national manufacturer of telecommunications and cable equipment with revenues of approximately \$1.7 billion and debt of \$1 billion prior to the industry down turn. I worked closely with the CEO to stabilize the operations and avoid a fire sale of the business. A quick turn through chapter 11 enabled it to emerge as a viable business, where upon the CEO was able to regrow the business and position it for a successful sale to an industry player 18 months later.

- **WorldCom, Inc.** – Chief Financial Officer – 2002, Advisor – 2003

WorldCom was one of the largest telecommunication companies with assets of over \$107 billion and operations across the globe. It filed for chapter 11 during 2002 due to a massive fraud which covered up the significant operational deficiencies and losses it was experiencing. I was brought in as a condition of the DIP agreement and worked closely with the CEO and other members of the senior management to stabilize the company, restructure the operations to reduce opex, provide stability to the international operations and assist with the plan of reorganization negotiations and confirmation.

Dubel & Associates, L.L.C.

- **CellNet Data Systems, Inc.** – Chief Restructuring Officer – 1999-2001

CellNet was a startup technology company that provided smart grid and smart metering and billing solutions for the utility industry. After burning through in excess of \$600 million of initial funding it was not able to access the capital markets to continue to build out its platform and realize the cost synergies across contracts that would make it profitable. Working closely with the new CEO, we reduced the cost structure and sold the company to one of its meter suppliers enabling it to continue to operate in a successful manner.

- **Barneys New York** – Chief Financial Officer – 1996-1999

Barneys was, at this time, a family owned high end retail store chain operating with over 30 stores and international affiliations in Asia. After an uncontrolled growth plan and management that did not understand its cost structure, it filed for chapter 11. I was brought in at the request of the DIP lender to oversee the family's management, to control its costs, close unprofitable locations, renegotiate store leases and work out a consensual chapter 11 plan that included its largest creditors providing financing through a rights offering to enable Barneys to successfully emerge from chapter 11 as a profitable retailer.

- **The Leslie Fay Companies** – EVP Restructuring and Chief Financial Officer – 1993-1995

Leslie Fay was one of the larger designer and manufacturer of ladies dresses, sportswear and suits in the US. A public company, it was the victim of fraud by its financial management team to hide the true cost of operations and manufacturing of its products. This led to a chapter 11 filing. I worked closely with the CEO and President to stabilize its financial management team, reduce costs and position it for an emergence from chapter 11.

- **Robert Maxwell Group** – Head of US Private Companies – 1991-1993

Robert Maxwell was a British entrepreneur who invested heavily in the publishing space. After financial improprieties were uncovered and his subsequent suicide, I was appointed by the UK Administrators to run all of his US operations, which included over 40 private companies. I worked closely with the UK administrators to realize value through sales of these US operations and turn those proceeds over to the UK Administrators.

Dubel & Associates, L.L.C.

Mr. Dubel is a past board member and officer of the Association of Insolvency and Reorganization Advisors, a Certified Insolvency and Reorganization Advisor and is a member of the Turnaround Management Association and the American Bankruptcy Institute. Mr. Dubel received a Bachelor in Business Administration degree from the College of William and Mary.

Dubel & Associates, LLC

Selected Case Studies

SunEdison, Inc.
John Dubel – Chief Executive Officer and Chief Restructuring Officer

Situation

- ▶ SunEdison (SUNE) was the largest global renewable energy development company prior to its filing for chapter 11 in April 2016. SUNE had over \$10 billion of liabilities and 4,500 employees spread across operations in over 50 countries on 6 continents
- ▶ Continued downward pressure on energy prices caused renewable energy projects to experience stress. Lack of proper integration of acquisitions and overpayment on other acquisitions caused a liquidity crisis. Public spin-offs of profitable yieldco assets cut off cash flow that was needed to run the operations.
- ▶ Senior management control of the Yieldcos enabled borrowings from the Yieldcos which could not be repaid

Actions Taken

- ▶ Hired initially as CRO with a clear mandate to take on CEO responsibilities
- ▶ An immediate assessment of the opportunity to maintain a going concern was initiated.
- ▶ Programs were put in place to plug the employee exodus that SUNE was experiencing
- ▶ In consultation with our lenders made the determination that an orderly sale of assets was the best path to optimum value realization
- ▶ Maintained an open line of communication with the DIP, 1L and 2 L lenders to build back trust in the company
- ▶ Engaged with the Board of the Yieldcos, TERP and GBLB, to work towards a resolution of the disputes between the Yieldcos and SUNE

Results

- ▶ Took on CEO role after a short transition with the former CEO
- ▶ Reorganization of key personnel functions including the hiring of a new CFO and Controller provided stability in the Finance functions for the company to operate within the limits of the DIP agreement.
- ▶ Executed a global marketing process which resulted in over 60 asset sales with approximately \$1.5 billion of gross proceeds
- ▶ Executed a plan which resulted in the transition of administrative and operational functions from SUNE to the Yieldcos which helped stabilize the value of our ownership stake in these entities

SunEdison, Inc. (continued)
John Dubel – Chief Executive Officer and Chief Restructuring Officer

Situation	Actions Taken	Results
<ul style="list-style-type: none"> ▶ Class and individual litigation against SUNE and the Yieldcos related to these control issues ensued. ▶ Shortly after a Feb 2016 2L financing the company has exhausted those funds and was out of available funds to operate the business. ▶ Additional litigation commenced related to cancelled acquisitions. ▶ During this timeframe, the creditors lost faith in the CEO and CFO. ▶ SUNE filed for chapter 11 in late April 2016 funded by a DIP provided by the 1L and 2L creditors. 	<ul style="list-style-type: none"> ▶ Engaged with the Board and management of the Yieldcos, TERP and GBL, to start to work towards a resolution of the disputes between the Yieldcos and SUNE ▶ Put in place a path to seek resolution of all of the Class Action and individual shareholder litigations by seeking a mediation in the District Court and Bankruptcy Court litigation related to both SUNE and the Yieldcos ▶ Commenced negotiations to settle the various litigations amongst SUNE's creditor groups and between SUNE and its Yieldcos ▶ Worked closely with Chief Judge Morris, the mediator appointed in the case, to craft a resolution to all intercreditor disputes 	<ul style="list-style-type: none"> ▶ Drove a plan, through a directed litigation strategy, to force a resolution of the over \$3 billion of claims brought against SUNE by the Yieldcos which resulted in a cooperative sale of the Yieldcos netting SUNE approximately \$825 million ▶ A replacement DIP agreement was put in place to eliminate certain concerned creditors and align the interests of the DIP lenders and the prepetition secured creditors. ▶ Settlements of the vast majority of class and individual shareholders were negotiated ▶ A mediated resolution amongst SUNE's creditor resulted in a successful chapter plan of reorg funded by a rights offering led by SUNE's 2L creditors

Financial Guaranty Insurance Company

John Dubel – Chief Executive Officer and member of the Board of Directors

Situation	Actions Taken	Results
<ul style="list-style-type: none"> ▶ FGIC was the third largest monoline bond insurer, insuring in excess of \$300 billion of public finance instruments, RMBS securitizations and CDS contracts ▶ At the start of 2008, FGIC was at risk of losing its AAA ratings ▶ The residential real estate meltdown caused FGIC to face billions of dollars of claims from CDS and RMBS contracts it had insured ▶ In addition, several of FGIC's largest public finance deals were on the cusp of defaulting ▶ In late 2009, FGIC's statutory capital went negative and was subject to immediate takeover by the NYS Department of Financial Services 	<ul style="list-style-type: none"> ▶ Raised capital surplus by \$830 million through reinsurance agreements and preferred stock ▶ Negotiated settlements of CDS contracts ▶ Managed the workout of multiple public finance insurance contracts ▶ Managed affirmative litigation actions to recover from parties that harmed FGIC's insurance contracts ▶ Developed an innovative restructuring plan to allow FGIC to file a pre-arranged rehabilitation plan in NYS Court ▶ Positioned the company to be able to operate in the post rehabilitation environment to pay claims to policyholders in a timely manner 	<ul style="list-style-type: none"> ▶ Planned and executed an orderly Rehabilitation Plan process which resulted in an innovative and precedent setting proceeding for FGIC's policyholders ▶ Managed down the overall exposure from \$312 billion to under \$30 billion ▶ Settled parent/subsidiary issues without litigation ▶ Recovered in excess of \$1.25 billion for policyholders from parties that harmed FGIC's contracts ▶ All of these results were accomplished while maintaining an independent view towards protecting all policyholders interests

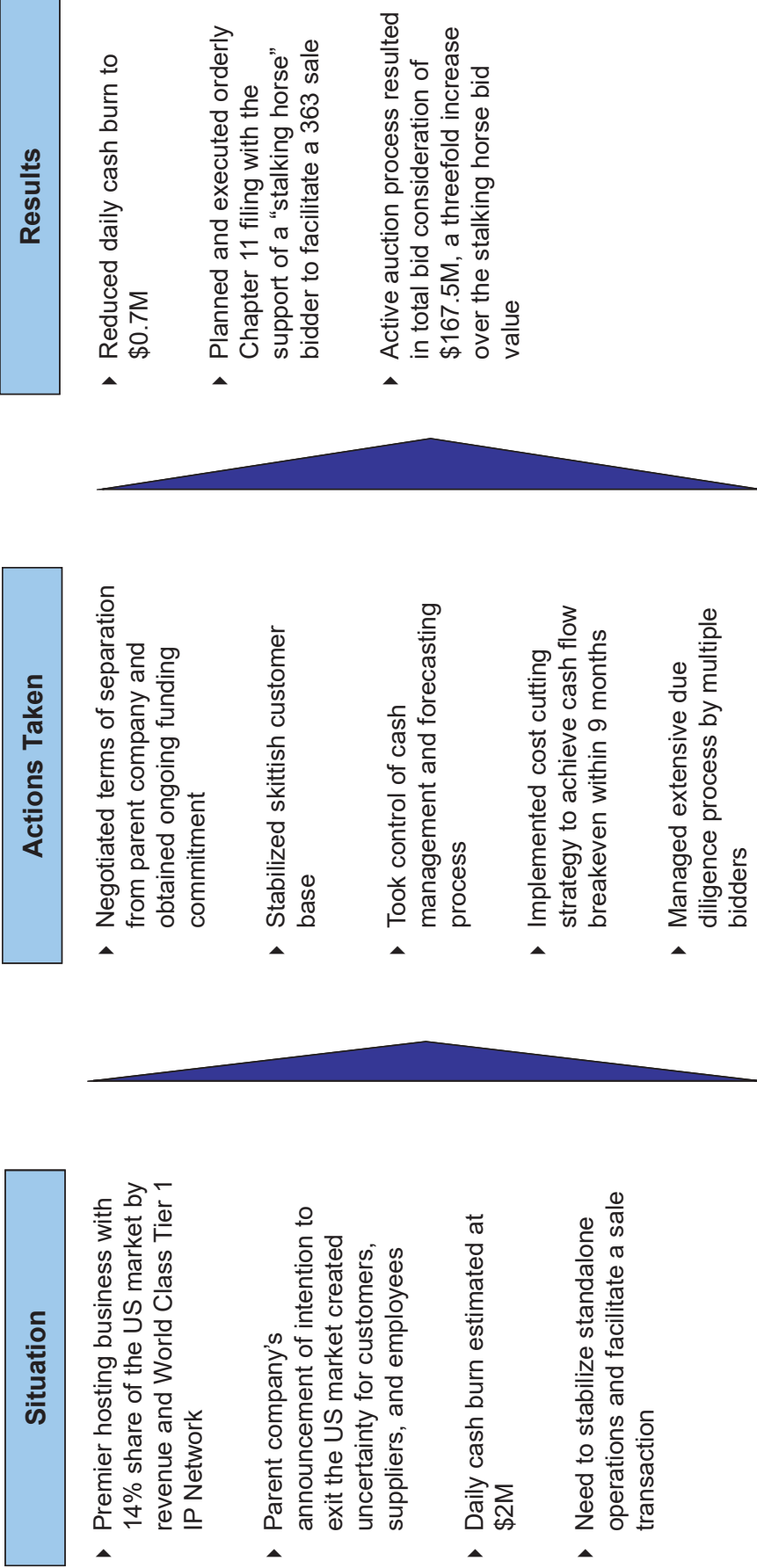
RCN Corporation – Integrated Triple Play Service Provider

John Dubel – President and Chief Operating Officer

Situation	Actions Taken	Results
<ul style="list-style-type: none"> ▶ Bundled 3-product cable provider offering integrated voice, video and data products in the US Northeast, Midwest and West Coast markets ▶ Revenues of approximately \$500 million ▶ Over 1 million connections ▶ \$1.7 BN of debt in default ▶ Secured creditors pushing the Company to a forced liquidation ▶ Lack of confidence in management's business plan and ability to rationalize the business ▶ Company lacked adequate liquidity to maintain operations 	<ul style="list-style-type: none"> ▶ Hired as President and CRO to lead RCN during this crisis. ▶ Implemented reorganization of operating costs achieving positive EBITDA and cash flow ▶ Actions included: <ul style="list-style-type: none"> – Rationalized customer base – Segmented Customer Service activity and automated where possible – Consolidated Network Operations to drive efficiency – Reduced IT functions – Reduced customer service call volume through web-based solutions – Simplified product offering – Generated Tech Operations savings 	<ul style="list-style-type: none"> ▶ Streamlined operations and reduced breakeven costs achieving positive cash flow and EBITDA ▶ Reduced annualized SG&A costs by 20% ▶ Reduced headcount by 25% ▶ Improved Customer Service quality ▶ Company emerged with over \$125 million of cash in hand ▶ Instituted rigorous cost reduction procedures within the company ▶ Positioned the company for future positive growth

Cable & Wireless America – Successfully Positioned the Company for a Sale

John Dubel – Chief Executive Officer



Acterna – Reduced Costs, Drove a Successful Turnaround

John Dubel – Chief Restructuring Officer

Situation	Actions Taken	Results
<ul style="list-style-type: none"> ▶ Leading Telecom Network equipment supplier with worldwide operations that was facing a severe liquidity crisis ▶ Test equipment market was crippled by the drought of capital spending from Telecom Network companies ▶ Debt levels were not sustainable in then current market conditions 	<ul style="list-style-type: none"> ▶ Assumed role of CRO to lead company through Chapter 11 ▶ Restructured \$1.0 BN of debt ▶ Preserved non-domestic assets across 30 countries necessary to a successful reorganization. ▶ Focused sales activity on core markets ▶ Worked with management to reduce SG&A costs ▶ Rationalized headcount through centralization of manufacturing activity ▶ Managed the subsidiary divestiture program ▶ Integrated worldwide cash control procedures improving liquidity 	<ul style="list-style-type: none"> ▶ Acterna emerged from Chapter 11 with 80% less debt and a reduction of 85% of interest costs in less than 6 months ▶ Improved international cash liquidity sufficiently for non-US operations to become self funding ▶ Cash at emergence was over \$60 million ▶ Reduced operating cash costs so the company was self funding and the DIP was never used to operate the company ▶ 18 months after C-11, Acterna announced a sale to JDS Uniphase, for a three fold increase in value.

WorldCom – Stabilized Operations and Finance Function

John Dubel – Chief Financial Officer

Situation	Actions Taken	Results
<ul style="list-style-type: none"> ▶ A massive fraud which masked operational, financial and reporting issues crippled the company's credibility ▶ WorldCom suffered from excess debt with declining value of assets, financial fraud issues, contentious relationship with creditors, and a substantial cash burn ▶ Significant negative cash flow from international operations ▶ WorldCom filed for bankruptcy in July of 2002, becoming the largest bankruptcy filing in history at the time 	<ul style="list-style-type: none"> ▶ Assumed role Chief Financial Officer until a permanent management team could be put in place then worked as financial advisor for pendency of Chapter 11 case ▶ Put turnaround teams, operational restructuring plans, and cash management plans in place ▶ Led the international restructuring efforts ▶ Assisted in negotiations with creditors ▶ Implemented an achievable 2003 business plan, facilitated several cost reduction initiatives, and managed the 13-week cash flow forecast ▶ Reduced capital spending 	<ul style="list-style-type: none"> ▶ Achieved \$2 BN of operational savings ▶ Increased cash flow by more than \$100M in international operations and avoided bankruptcy in many jurisdictions ▶ Worked with all stakeholders to reach consensus on a plan of reorganization ▶ Successfully restructured the balance sheet

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Debtor.

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§
§
§
§
§

Chapter 11

Case No. 19-34054-sgj11

Related to Docket Nos. 7 & 259

**ORDER APPROVING SETTLEMENT WITH OFFICIAL COMMITTEE OF
UNSECURED CREDITORS REGARDING GOVERNANCE OF THE DEBTOR
AND PROCEDURES FOR OPERATIONS IN THE ORDINARY COURSE**

Upon the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* (the “Motion”),² filed by the above-captioned debtor and debtor in possession (the “Debtor”); the Court having reviewed the Motion, and finding that (a) the Court has

¹ 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.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

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jurisdiction over this matter pursuant to 28 U.S.C. §§157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), and (c) notice of this Motion having been sufficient under the circumstances and no other or further notice is required; and having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and having determined that the relief sought in the Motion is in the best interests of the Debtor and its estate; and after due deliberation and sufficient cause appearing therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on the terms and conditions set forth herein.
2. The Term Sheet is approved and the Debtor is authorized to take such steps as may be necessary to effectuate the settlement contained in the Term Sheet, including, but not limited to: (i) entering into the Governing Documents and compensating the Independent Directors for their services either directly or by reimbursing Strand for any costs incurred in connection with the appointment and compensation of the Debtor; (ii) implementing the Document Production Protocol; and (iii) implementing the Protocols.
3. Subject to the Protocols and the Term Sheet, the Debtor is authorized to continue operations in the ordinary course of its business.
4. Notwithstanding any stay under applicable Bankruptcy Rules, this Order shall be effective immediately upon entry.
5. The Court shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Order, including matters related to the Committee's approval rights over the appointment and removal of the Independent Directors.

END OF ORDER



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 9, 2020


United States Bankruptcy Judge

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Debtor.

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§
§
§

Chapter 11

Case No. 19-34054-sgj11

Related to Docket Nos. 7 & 259

**ORDER APPROVING SETTLEMENT WITH OFFICIAL COMMITTEE OF
UNSECURED CREDITORS REGARDING GOVERNANCE OF THE DEBTOR
AND PROCEDURES FOR OPERATIONS IN THE ORDINARY COURSE**

Upon the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* (the "Motion"),² filed by the above-captioned debtor and debtor in possession

¹ 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.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

(the “Debtor”); the Court having reviewed the Motion, and finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), and (c) notice of this Motion having been sufficient under the circumstances and no other or further notice is required; and having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and having determined that the relief sought in the Motion is in the best interests of the Debtor and its estate; and after due deliberation and sufficient cause appearing therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on the terms and conditions set forth herein, and the United States Trustee’s objection to the Motion is OVERRULED.

2. The Term Sheet is approved and the Debtor is authorized to take such steps as may be necessary to effectuate the settlement contained in the Term Sheet, including, but not limited to: (i) implementing the Document Production Protocol; and (ii) implementing the Protocols.

3. The Debtor is authorized (A) to compensate the Independent Directors for their services by paying each Independent Director a monthly retainer of (i) \$60,000 for each of the first three months, (ii) \$50,000 for each of the next three months, and (iii) \$30,000 for each of the following six months, provided that the parties will re-visit the director compensation after the sixth month and (B) to reimburse each Independent Director for all reasonable travel or other expenses, including expenses of counsel, incurred by such Independent Director in connection with its service as an Independent Director in accordance with the Debtor’s expense reimbursement policy as in effect from time to time.

4. The Debtor is authorized to guarantee Strand's obligations to indemnify each Independent Director pursuant to the terms of the Indemnification Agreements entered into by Strand with each Independent Director on the date hereof.

5. The Debtor is authorized to purchase an insurance policy to cover the Independent Directors.

6. All of the rights and obligations of the Debtor referred to in paragraphs 3 and 4 hereof shall be afforded administrative expense priority under 11 U.S.C. § 503(b).

7. Subject to the Protocols and the Term Sheet, the Debtor is authorized to continue operations in the ordinary course of its business.

8. Pursuant to the Term Sheet, Mr. James Dondero will remain as an employee of the Debtor, including maintaining his title as portfolio manager for all funds and investment vehicles for which he currently holds that title; provided, however, that Mr. Dondero's responsibilities in such capacities shall in all cases be as determined by the Independent Directors and Mr. Dondero shall receive no compensation for serving in such capacities. Mr. Dondero's role as an employee of the Debtor will be subject at all times to the supervision, direction and authority of the Independent Directors. In the event the Independent Directors determine for any reason that the Debtor shall no longer retain Mr. Dondero as an employee, Mr. Dondero shall resign immediately upon such determination.

9. Mr. Dondero shall not cause any Related Entity to terminate any agreements with the Debtor.

10. No entity may commence or pursue a claim or cause of action of any kind against any Independent Director, any Independent Director's agents, or any Independent

Director's advisors relating in any way to the Independent Director's role as an independent director of Strand without the Court (i) first determining after notice that such claim or cause of action represents a colorable claim of willful misconduct or gross negligence against Independent Director, any Independent Director's agents, or any Independent Director's advisors and (ii) specifically authorizing such entity to bring such claim. The Court will have sole jurisdiction to adjudicate any such claim for which approval of the Court to commence or pursue has been granted.

11. Nothing in the Protocols, the Term Sheet or this Order shall affect or impair Jefferies LLC's rights under its Prime Brokerage Customer Agreements with the Debtor and non-debtor Highland Select Equity Master Fund, L.P., or any of their affiliates, including, but not limited to, Jefferies LLC's rights of termination, liquidation and netting in accordance with the terms of the Prime Brokerage Customer Agreements or, to the extent applicable, under the Bankruptcy Code's "safe harbor" protections, including under sections 555 and 561 of the Bankruptcy Code. The Debtor shall not conduct any transactions or cause any transactions to be conducted in or relating to the Jefferies LLC accounts without the express consent and cooperation of Jefferies LLC or, in the event that Jefferies withholds consent, as otherwise ordered by the Court. For the avoidance of doubt, Jefferies LLC shall not be deemed to have waived any rights under the Prime Brokerage Customer Agreements or, to the extent applicable, the Bankruptcy Code's "safe harbor" protections, including under sections 555 and 561 of the Bankruptcy Code, and shall be entitled to take all actions authorized therein without further order of the Court

12. Notwithstanding any stay under applicable Bankruptcy Rules, this Order shall be effective immediately upon entry.

13. The Court shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Order, including matters related to the Committee's approval rights over the appointment and removal of the Independent Directors.

END OF ORDER




CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed March 2, 2020


United States Bankruptcy Judge

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

In re:	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	)	Case No. 19-34054-sgj11
Debtor.	)	Re: Docket No. 421

ORDER (I) ESTABLISHING BAR DATES FOR FILING CLAIMS AND (II) APPROVING THE FORM AND MANNER OF NOTICE THEREOF

This matter coming before the Court on the *Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims and (ii) Approving the Form and Manner of Notice Thereof* (the "Motion"),² filed by the above-captioned debtor (the "Debtor"); the Court having reviewed the Motion and having heard the statements of counsel regarding the relief requested in the Motion at a hearing, if any, before the Court (the "Hearing"); the Court finding that (i) the Court has

¹ 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.

² Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and (iii) notice of the Motion and the Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. As used herein, (a) the term “claim” has the meaning given to it in section 101(5) of the Bankruptcy Code, (b) the term “entity” has the meaning given to it in section 101(15) of the Bankruptcy Code, and (c) the term “governmental units” has the meaning given to it in section 101(27) of the Bankruptcy Code.
3. The forms of the Bar Date Notice, the Publication Notice, the Proof of Claim Form, and the manner of providing notice of the Bar Dates proposed in the Motion, are approved in all respects. The form and manner of notice of the Bar Dates approved herein satisfy the notice requirements of the Bankruptcy Code and the Bankruptcy Rules. As such, the Debtor is authorized to serve the Bar Dates Notice Package in the manner described below.
4. The General Bar Date. Except as described below, all entities holding claims against the Debtor that arose before October 16, 2019 (the “Petition Date”) shall file proofs of claim by the General Bar Date of **April 8, 2020 at 5:00 p.m. Central Time**. The General Bar Date applies to **all types of claims** against the Debtor that **arose prior to the Petition Date**, regardless of whether the claim would be legally classified as administrative, secured, priority (including, without limitation, claims entitled to priority under sections 503(b)(9), 507(a)(4), or 507(a)(5) of the Bankruptcy Code), or unsecured nonpriority claims.

5. The Fund Investor Bar Date. Except as described below, all investors in funds managed by the Debtor (the “Fund Investors”) holding claims against the Debtor that arose before Petition Date shall file proofs of claim by the General Bar Date of **April 23, 2020 at 5:00 p.m. Central Time**. The Fund Investor Bar Date applies to **all types of claims** held by Fund Investors against the Debtor that **arose prior to the Petition Date**, regardless of whether the claim would be legally classified as administrative, secured, priority (including, without limitation, claims entitled to priority under sections 503(b)(9), 507(a)(4), or 507(a)(5) of the Bankruptcy Code), or unsecured nonpriority claims.

6. The Governmental Bar Date. Pursuant to section 502(b)(9) of the Bankruptcy Code, except as described below, all governmental units holding claims (whether secured, priority, or unsecured nonpriority) against the Debtor that arose before the Petition Date shall file proofs of claim by the Governmental Bar Date of April 13, 2020 at 5:00 p.m. Central Time.

7. The Rejection Bar Date. Any entity whose claims arise out of the Court-approved rejection of an executory contract or unexpired lease in accordance with section 365 of the Bankruptcy Code or any other order of the Court in this case, the Rejection Bar Date for such a claim will be the later of (a) the General Bar Date; (b) for executory contracts and unexpired leases rejected pursuant to a rejection motion or notice, twenty-one (21) days after the later of (i) the date of the rejection motion or notice, (ii) the date of the surrender of the leased property to the affected lessor, and (iii) any alternative date provided in the rejection motion or notice; or (c) any other date set by an order of the Court. The later of these dates is referred to in this order as the “Rejection Bar Date.”

8. The Amended Schedules Bar Date. If the Debtor amends or supplements the Schedules (such Schedules, the “Amended Schedules”) after the Service Date, the Debtor shall

give notice pursuant to Local Rule 1009-1(b) of any Amended Schedules to the holders of claims affected thereby, including notice of the Amended Schedules Bar Date to file proofs of claim in response to the amendment or supplement to the Schedules. If the Debtor amends or supplements its Schedules to reduce the undisputed, non-contingent, and liquidated amount, to change the nature, classification, or characterization of a claim against the Debtor, or to add a new claim in the Amended Schedules, any affected entities that dispute such changes must, by the Amended Schedules Bar Date, file a proof of claim or amend any previously filed proof of claim in respect of the Amended Schedules claim in accordance with the procedures described herein. The Amended Schedules Bar Date shall be the later of: (a) the General Bar Date; and (b) 30 days after the date that the notice of the Amended Schedules is served on the entity. The later of these dates is referred to in this order as the “Amended Schedules Bar Date.”

9. Subject to the terms described in paragraphs 4, 5, 6, and 7 for holders of claims subject to the General Bar Date, Fund Investor Bar Date, Governmental Bar Date, Rejection Bar Date, and the Amended Schedules Bar Date, the following entities must file proofs of claim on or before the General Bar Date:

- a. any entity (i) whose prepetition claim against the Debtor is not listed in the Debtor’s Schedules or is listed as any of disputed, contingent, or unliquidated and (ii) that desires to share in any distribution in any of this case; and
- b. any entity whose prepetition claim against the Debtor is included within the Debtor’s Schedules but believes that its prepetition claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its claim allowed in a classification or amount different from the classification or amount identified in the Schedules.

10. The following entities, whose claims otherwise would be subject to the General Bar Date, the Fund Investor Bar Date or the Governmental Bar Date, need not file proofs of claim in this case:

- a. any entity that already has filed a signed proof of claim against the Debtor in a form substantially similar to Official Bankruptcy Form No. 410 with: (i) the Clerk of the Bankruptcy Court for the District of Delaware and/or the Clerk of the Bankruptcy Court for the Northern District of Texas (Dallas) (ii) the Debtor's claims and noticing agent, Kurtzman Carson Consultants LLC (the "Claims Agent");
- b. any entity (i) whose claim against the Debtor is not listed as "disputed", "contingent", or "unliquidated" in the Schedules or Amended Schedules and (ii) agrees with the nature, classification, and amount of its claim as identified in the Schedules or Amended Schedules; and
- c. any entity whose claim against the Debtor previously has been allowed by, or paid pursuant to, an order of the Court.

11. Parties asserting claims against the Debtor that accrued before the Petition Date shall use either (a) the modified proof of claim form provided by the Debtor, as described in the Motion, (b) Official Bankruptcy Form No. 410, or (c) a form substantially similar to Official Bankruptcy Form No. 410 (each a "Proof of Claim Form").

12. The filing of a Proof of Claim Form shall be deemed to satisfy the procedural requirements for the assertion of administrative priority claims under section 503(b)(9) of the Bankruptcy Code.

13. The following procedures for the filing of a Proof of Claim Form (the "Form") shall apply:

- a. Entities shall file each Proof of Claim Form so they are received on or before the applicable Bar Dates either
 1. electronically with the Claims Agent via the interface available at www.kccllc.net/HCMLP;
 - or
 2. via U.S. mail or other hand delivery method to the following address:
HCMLP Claims Processing Center
c/o KCC

222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245

- b. Forms will be deemed filed when actually received by the Debtor's Claims Agent. Forms may not be delivered via facsimile or electronic mail transmission.
- c. Forms will be collected, docketed, and maintained by the Claims Agent.
- d. All Forms shall be signed by the claimant or, if the claimant is not an individual, by an authorized agent of the claimant. The Form shall be written in English and be denominated in United States currency. Claimants should attach to the completed form any documents on which the claim is based (or, if such documents are voluminous, attach a summary) or an explanation as to why the documents are not available.

14. Any entity holding an interest in the Debtor (an "Interest Holder"), which interest is based exclusively upon the ownership of: (a) common or preferred stock in the Debtor; or (b) warrants or rights to purchase, sell, or subscribe to such a security or interest of the Debtor (any such security or interest being referred to herein as an "Interest"), need not file a proof of claim or proof of interest on or before the General Bar Date on account of such Interest; provided, however, Interest Holders who want to assert claims against the Debtor that arise out of or relate to the ownership or purchase of an Interest, including claims arising out of or relating to the sale, issuance, or distribution of the Interest, shall file a claim by the applicable Bar Dates, unless another exception identified in this order applies.

15. The Debtor shall retain the right to: (a) dispute, or assert offsets or defenses against, any filed proofs of claim, or any claim listed or reflected in the Schedules, as to nature, amount, liability, classification, or otherwise; (b) subsequently designate any scheduled claim as disputed, contingent, or unliquidated; and (c) otherwise amend or supplement the Schedules. If the Debtor subsequently amends or supplements the Schedules, the Debtor shall give notice of any Amended Schedules to the holders of claims affected thereby, including notice of the Amended Schedules

Bar Date to file proofs of claim in response to the Amended Schedules. Notwithstanding the foregoing, nothing contained herein shall preclude the Debtor from objecting to any claim, whether scheduled or filed, on any grounds.

16. Any entity that is required to file a Proof of Claim Form but fails to so properly by the applicable Bar Date, shall not be treated as a creditor with respect to such claim for purposes of voting upon, or receiving distributions under, any chapter 11 plan in this case.

17. No later than three (3) business days after the entry of this Order, the Debtor shall serve the Bar Dates Notice Package, including a copy of the Bar Date Notice attached hereto as **Exhibit 1**, and a Proof of Claim Form, either (1) by first-class mail, postage prepaid (unless specified otherwise herein) means on:

- a. all known holders of claims or potential claims, including all entities listed in the Schedules as potentially holding claims;
- b. Fund Investors by electronic means through fund administrators; provided further that the Bar Dates Notice Package to Fund Investors shall also include a cover letter in the form attached hereto as **Exhibit 2**.
- c. the Office of the United States Trustee for the Northern District of Texas (Dallas);
- d. counsel to the Committee of Unsecured Creditors;
- e. all parties that have requested notice in this case pursuant to Bankruptcy Rule 2002 as of the date of the entry of the Bar Dates Order;
- f. all counterparties to executory contracts and unexpired leases of the Debtor;
- g. all parties to litigation with the Debtor;
- h. the District Director of Internal Revenue for the Northern District of Texas (Dallas) and all other taxing authorities for the jurisdictions in which the Debtor conducts business;
- i. all relevant state attorneys general;
- j. all holders of record of any Interests in any of the Debtor as of the date of the Bar Date Order (although copies of the Proof of Claim Form will not be provided to them); and

k. such additional persons and entities as deemed appropriate by the Debtor.

18. The Proof of Claim Form mailed to such entities will indicate how the Debtor has scheduled the creditor's claim in the Schedules, including: (a) the identity of the Debtor against which the entity's claim is scheduled; (b) the amount of the claim, if any; (c) whether the claim is listed as disputed, contingent, or unliquidated; and (d) whether the claim is listed as a secured, unsecured non-priority, or unsecured priority claim. The Proof of Claim Form will also include a section for 503(b)(9) claims. Any entity that relies on the information in the Schedules will bear responsibility for determining that its claim is accurately listed therein.

19. Pursuant to Bankruptcy Rules 2002(l) and 9008, as soon as practicable after the Service Date, the Debtor shall publish notice of the Bar Dates substantially in the form attached to the Motion as Exhibit B (the "Publication Notice") two (2) times each in (a) the national edition of either *The New York Times* or *The Wall Street Journal* and (b) *The Dallas Morning News* as a means to provide notice of the Bar Dates to such unknown potential claimants.

20. The Debtor and the Claims Agent are authorized and empowered to take such steps and perform such acts as may be necessary to implement and effectuate the terms of this order.

21. The entry of this order is without prejudice to the right of the Debtor to seek a further order of this Court fixing a date by which holders of claims or interests not subject to the Bar Dates established herein shall file proofs of claim or interest.

22. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this order.

END OF ORDER

EXHIBIT 1

[Bar Date Notice]

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

In re:)	
	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	)	Case No. 19-34054-sgj11
Debtor.)	
)	

NOTICE OF BAR DATES FOR FILING CLAIMS

A HOLDER OF A POSSIBLE CLAIM AGAINST THE DEBTOR SHOULD CONSULT AN ATTORNEY REGARDING ANY MATTERS NOT COVERED BY THIS NOTICE, SUCH AS WHETHER THE HOLDER SHOULD FILE A PROOF OF CLAIM.

TO ALL KNOWN CREDITORS OF THE ABOVE-CAPTIONED ENTITY (THE “DEBTOR”):

On [_____], 2020, the United States Bankruptcy Court for the Northern District of Texas (Dallas) (the “Court”) entered an order (the “Bar Date Order”) in the above-captioned chapter 11 case establishing certain claims bar dates.

Pursuant to the Bar Date Order, the Court has established April 8, 2020 at 5:00 p.m., Central Time as the general bar date (the “General Bar Date”) for filing claims in the Debtor’s chapter 11 case.

As used in this Notice, the term “entity” has the meaning given to it in section 101(15) of the Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”), and includes all persons, estates, trusts, governmental units, and the United States Trustee. In addition, the terms “persons” and “governmental units” are defined as set forth in sections 101(41) and 101(27) of the Bankruptcy Code, respectively.

As used in this notice, the term “claim” means, as to or against the Debtor and in accordance with section 101(5) of the Bankruptcy Code: (i) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (ii) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

¹ 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.

THE BAR DATES

The Bar Date Order established the following bar dates for filing proofs of claim in this case (collectively, the “Bar Dates”):

- a. The General Bar Date. Pursuant to the Bar Date Order, except as described below, all entities holding claims, whether administrative, secured, priority (including, without limitation, claims entitled to priority under sections 503(b)(9), 507(a)(4), or 507(a)(5) of the Bankruptcy Code), or unsecured nonpriority claims against the Debtor that arose before October 16, 2019 (the “Petition Date”) must file proofs of claim by the General Bar Date of **April 8, 2020 at 5:00 p.m. Central Time.**
- b. The Fund Investor Bar Date. Pursuant to the Bar Date Order, all investors in funds managed by the Debtor (the “Fund Investors”) holding claims (whether secured, unsecured, priority, or unsecured nonpriority) against the Debtor that arose before the Petition Date shall file proofs of claim by the Fund Investor Bar Date of **April 23, 2020 at 5:00 p.m. Central Time.**
- c. The Governmental Bar Date. Pursuant to the Bar Date Order, except as described below, all governmental units holding claims (whether secured, unsecured, priority, or unsecured nonpriority) against the Debtor that arose before the Petition Date must file proofs of claim by the Governmental Bar Date of **[] , 2020 at 5:00 p.m. Central Time.**
- d. The Rejection Bar Date. Any entity whose claims arise out of the Court-approved rejection of an executory contract or unexpired lease, or as authorized by any order of the Court in this case, the Rejection Bar Date for such a claim will be the later of (a) the General Bar Date; (b) for executory contracts and unexpired leases rejected pursuant to a rejection motion, twenty-one (21) days after the later of (i) the date of the rejection motion, (ii) the date of the surrender of the leased property to the affected lessor, and (iii) any alternative date provided in the rejection motion; and (c) any other date set by an order of the Court. The later of these dates is referred to in this notice as the “Rejection Bar Date.”
- e. The Amended Schedules Bar Date. If, subsequent to the mailing date of this notice, the Debtor amends or supplements its Schedules of Assets and Liabilities (the “Schedules”) to reduce the undisputed, non-contingent, and liquidated amount or to change the nature, classification, or characterization of a claim against the Debtor reflected therein, any affected entities that dispute such amendments or supplements to the Schedules (such Schedules, the “Amended Schedules”) are required to file a proof of claim or amend any previously filed proof of claim in respect of the Amended Schedules claim on or before the later of: (a) the General Bar Date; and (b) 30 days after the date that notice of the applicable Amended Schedules is served on the claimant. The later of these dates is referred to in this notice as the “Amended Schedules Bar Date.”

FILING CLAIMS

1. WHO MUST FILE

Subject to the terms described above for holders of claims subject to the General Bar Date, the Fund Investor Bar Date, Governmental Bar Date, Rejection Bar Date, and the Amended Schedules Bar Date, the following entities must file proofs of claim on or before the General Bar Date:

- a. any entity (i) whose prepetition claim against the Debtor is not listed in the Debtor's Schedules or is listed as any of disputed, contingent, or unliquidated and (ii) that desires to share in any distribution in any of this case; and
- b. any entity whose prepetition claim against the Debtor is included within the Debtor's Schedules but believes that its prepetition claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its claim allowed in a classification or amount different from the classification or amount identified in the Schedules.

2. WHAT TO FILE

The Debtor is enclosing a proof of claim form for use in this case, or you may use another proof of claim form that conforms substantially to Official Bankruptcy Form No. 410. If your claim is scheduled by the Debtor, the attached proof of claim form also sets forth: (i) the amount of your claim (if any) as scheduled; (ii) the Debtor against which the claim is scheduled; (iii) whether your claim is scheduled as disputed, contingent, or unliquidated; and (iv) whether your claim is listed as a secured, unsecured priority, or unsecured nonpriority claim. You will receive a different proof of claim form for each claim scheduled in your name by the Debtor. You may utilize the proof of claim form(s) provided by the Debtor to file your claim. Additional proof of claim forms may be obtained at the following websites: www.kccllc.net/HCMLP (the "Claim Agent Website") or <http://www.uscourts.gov/forms/bankruptcy-forms/proof-claim-0>.

3. WHEN AND WHERE TO FILE

Entities must file each Proof of Claim Form so they are received on or before the applicable Bar Dates either (a) electronically with Kurtzman Carson Consultants LLC (the "Claims Agent") via the interface available at www.kccllc.net/HCMLP or (b) via U.S. mail or other hand delivery method to the following address:

HCMLP Claims Processing Center
c/o KCC
222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245

Proof of Claim Forms will be deemed filed when **actually received** by the Claims Agent on or before the applicable Bar Date. **Proof of Claim Forms may not be delivered via facsimile or electronic mail transmission.**

Proof of Claim Forms will be collected, docketed, and maintained by the Claims Agent. If you want to receive acknowledgement of the Claims Agent's receipt of a Proof of Claim Form, you must submit by the applicable Bar Date, and concurrently with submitting your original Proof of Claim Form, (i) a copy of the original Proof of Claim Form and (ii) a self-addressed, postage prepaid return envelope.

All forms must be **signed** by the claimant or, if the claimant is not an individual, by an authorized agent of the claimant. The form must be written in English and be denominated in United States currency. You should attach to your completed form any documents on which the claim is based (or, if such documents are voluminous, attach a summary) or an explanation as to why the documents are not available.

4. ENTITIES NOT REQUIRED TO FILE A CLAIM

The Bar Date Order further provides that the following entities, whose claims otherwise would be subject to the General Bar Date, the Fund Investor Bar Date or the Governmental Bar Date, need not file claims in this case:

- a. any entity that already has filed a signed proof of claim against the Debtor in a form substantially similar to Official Bankruptcy Form No. 410 with: (i) the Clerk of the Bankruptcy Court for the District of Delaware and/or Clerk of the Bankruptcy Court for the Northern District of Texas (Dallas) (ii) the Debtor's Claims Agent;
- b. any entity (i) whose claim against the Debtor is not listed as "disputed", "contingent", or "unliquidated" in the Schedules or Amended Schedules and (ii) agrees with the nature, classification and amount of its claim as identified in the Schedules or Amended Schedules; and
- c. any entity whose claim against the Debtor previously has been allowed by, or paid pursuant to, an order of the Court.

NO REQUIREMENT FOR STOCKHOLDERS TO FILE PROOFS OF INTEREST

Any entity holding an interest in the Debtor (an "Interest Holder"), which interest is based exclusively upon the ownership of: (i) common or preferred stock in the Debtor; or (ii) warrants or rights to purchase, sell, or subscribe to such a security or interest of the Debtor (any such security or interest being referred to herein as an "Interest"), need not file a proof of claim or proof of interest on or before the General Bar Date on account of such Interest; provided, however, Interest Holders who want to assert claims against the Debtor that arise out of or relate to the ownership or purchase of an Interest, including claims arising out of or relating to the sale, issuance, or distribution of the Interest, must file a claim by the applicable Bar Dates, unless another exception identified in the Motion applies.

CONSEQUENCES OF FAILURE TO FILE A CLAIM

Any entity that is required to file a Proof of Claim Form but fails to do so properly by the applicable Bar Date shall not be treated as a creditor with respect to such claim for purposes of voting upon, or receiving distributions under, any chapter 11 plan in this case.

RESERVATION OF RIGHTS

The Debtor retains the right to: (i) dispute, or assert offsets or defenses against, any filed proofs of claim, or any claim listed or reflected in the Schedules, as to nature, amount, liability, classification, or otherwise; (ii) subsequently designate any scheduled claim as disputed, contingent, or unliquidated; and (iii) otherwise amend or supplement the Schedules. Notwithstanding the foregoing, nothing contained herein shall preclude the Debtor from objecting to any claim, whether scheduled or filed, on any grounds.

ADDITIONAL INFORMATION

If you require additional information regarding the filing of a claim, you may contact the Claims Agent at 877-573-3984 (310-751-1829 for international calls) or by submitting an inquiry at www.kccllc.net/HCMLP. Copies of the Bar Date Order and other information regarding the Debtor's chapter 11 case are available for inspection free of charge on the Claims Agent's website at: www.kccllc.net/HCMLP.

The Claims Agent cannot advise you how to file, or whether you should file, a claim. You may wish to consult an attorney regarding this matter.

[Remainder of Page Intentionally Left Blank]

Dated: February __, 2020.

PACHULSKI STANG ZIEHL & JONES LLP

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*Counsel and Proposed Counsel for the Debtor and
Debtor-in-Possession*

EXHIBIT 2

[Cover Letter]

**HIGHLAND CAPITAL
MANAGEMENT**

February ___, 2020

ATTENTION CUSTODIANS: THIS CORRESPONDENCE CONTAINS CLAIM DEADLINE INFORMATION. PLEASE FORWARD THIS LETTER, THE ATTACHED NOTICE AND CLAIM FORM TO YOUR CLIENTS WITHIN FIVE (5) BUSINESS DAYS OF RECEIPT.

To Investors in funds managed by Highland Capital Management, L.P.

On October 16, 2019, Highland Capital Management, L.P. (the "Company") filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Company's bankruptcy case is pending in the United States Bankruptcy Court for the Northern District of Texas Dallas Division (the "Bankruptcy Court") at Case No. 19-34054-sgj11.

On February ___, 2020, the Bankruptcy Court entered an order (the "Bar Date Order") establishing certain deadlines for filing claims against the Company. Included with this letter is a Notice of Bar Dates for Filing Claims (the "Notice"). Please review the Notice carefully.

The Notice provides additional information about how to file a claim. A Proof of Claim form is also included.

The Bankruptcy Court set **April 8, 2020** as the **General Bar Date** and **April 23, 2020** as the bar date for investors in funds managed by the Company ("**Fund Investor Bar Date**"). These are the deadlines to file claims against the Company that arose before October 16, 2020. Please take note that the claim bar dates are applicable to claims you may have against Highland Capital Management, L.P. and not against any other party. It is not necessary to file a claim based exclusively on your ownership interest in funds unless you believe you have a claim against Highland Capital Management, L.P.



I

If you require additional information regarding the filing of a claim, you may contact the Claims Agent at 877-573-3984 (310-751-1829 for international calls) or by submitting an inquiry at www.kccllc.net/HCMLP. Copies of the Bar Date Order and other information regarding the Debtor's chapter 11 case are available for inspection free of charge on the Claims Agent's website at: www.kccllc.net/HCMLP.

The Claims Agent cannot advise you how to file, or whether you should file, a claim. You may wish to consult an attorney regarding this matter.

Investor Relations

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

In re:	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	)	Case No. 19-34054-sgj11
Debtor.)	

**FIRST AMENDED PLAN OF REORGANIZATION OF HIGHLAND
CAPITAL MANAGEMENT, L.P.**

PACHULSKI STANG ZIEHL & JONES LLP

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Counsel for the Debtor and Debtor-in-Possession

¹ 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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DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the "Debtor"), proposes the following chapter 11 plan of reorganization (the "Plan") for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor's history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

ARTICLE I. **RULES OF INTERPRETATION, COMPUTATION OF TIME,** **GOVERNING LAW AND DEFINED TERMS**

A. Rules of Interpretation, Computation of Time and Governing Law

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to "Articles," "Sections," "Exhibits" and "Plan Documents" are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words "herein," "hereof," "hereunder" and "hereto" refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity's successors and assigns;

(h) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

B. Defined Terms

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, on [REDACTED] at 5:00 p.m. (prevailing Central Time).

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” means an “affiliate” as defined in section 101(2) of the Bankruptcy Code and also includes any other Entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such affiliate. For the purposes of this definition, the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a

Claim Allowed pursuant to the Plan or a Final Order of the Bankruptcy Court; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed by a Final Order.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) all Assets of the Estate other than the Reorganized Debtor Assets, including, but not limited to, the Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets received from the Reorganized Debtor on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent applicable, post-petition interest at the federal judgment rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims, and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however*, Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment

Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition unsecured Claim against the Debtor other than an Unpaid Employee Claim that is less than or equal to \$2,500,000 or any General Unsecured Claim that is voluntarily reduced to an Allowed amount less than or equal to \$2,500,000.

42. “*Convenience Claim Pool*” means the \$15,000,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. If the total amount of Allowed Convenience Claims is less than \$15,000,000, any Cash remaining in the Convenience Claim Pool after all distributions to Allowed Holders of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, including, to the extent applicable, all accrued and unpaid post-petition interest at the federal judgment rate.

As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

44. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

45. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

46. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

47. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

48. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

49. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

50. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

51. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

52. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

53. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

54. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

55. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

56. “*Exculpated Parties*” means, collectively, (i) the Debtor, (ii) the Independent Directors, (iii) the Committee, (iv) the members of the Committee (in their official capacities), (v) the Professionals retained by the Debtor in the Chapter 11 Case, (vi) Strand (solely from the

date of appointment of the Independent Directors), (vii) the CEO/CRO; and (viii) the Related Persons of each of the parties listed in (i) through (vii); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Exculpated Party.”

57. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

58. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

59. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

60. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

61. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

62. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

63. “*General Unsecured Claim*” means (1) any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; (e) Convenience Claim; (f) Unpaid Employee Claim; or (g) Subordinated Claim and (2) any Convenience Claim or Unpaid Employee Claim that makes the GUC Election.

64. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

65. “*GUC Election*” means the option provided to each Holder of a Convenience Claim or Unpaid Employee Claim on their Ballot to elect to be treated as a General Unsecured Claim for all purposes under this Plan, including for purposes of voting on this Plan.

66. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

67. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

68. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020.

69. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

70. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

71. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

72. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

73. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

74. “*Litigation Sub-Trust*” means a sub-trust that may be established within the Claimant Trust or a wholly –owned subsidiary of the Claimant Trust in each case in accordance with the terms and conditions set forth in the Claimant Trust Agreement. The Litigation Sub-Trust, if created, shall hold the Claimant Trust Assets that are Causes of Action.

75. “*Litigation Trustee*” means the trustee appointed by the Committee who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Claimant Trust Agreement. For avoidance of doubt, the Claimant Trustee may also serve as the Litigation Trustee.

76. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

77. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

78. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

79. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

80. “*Outside Closing Date*” means [REDACTED] at 12:00 noon (prevailing Central time).

81. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

82. “*Petition Date*” means October 16, 2019.

83. “*Plan*” means this *Debtor’s First Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices, and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

84. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

85. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

86. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the schedule of Causes of Action; and (vii) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

87. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code other than a Priority Tax Claim or an Administrative Claim.

88. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

89. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

90. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

91. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

92. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

93. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

94. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

95. “*Protected Parties*” means, collectively, (i) the Debtor, (ii) Strand (solely from the date of the appointment of the Independent Directors), (iii) the Reorganized Debtor, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Claimant Trust, (viii) the Claimant Trustee, (ix) the Litigation Trustee, (x) the members of the Claimant Trust Oversight Committee (in their official capacities), (xi) New GP LLC, (xii) the Professionals retained by the Debtor in the Chapter 11 Case, (xiii) the CEO/CRO; and (xiv) the Related Persons of each of the parties listed in (i) through (xii); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Protected Party.”

96. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity

Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

97. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

98. “*Related Entity*” means, without duplication, (a) James Dondero, (b) Mark Okada, (c) Grant Scott, (d) Hunter Covitz, (e) any entity or person that was an insider of the Debtor on the Petition Date under Section 101(31) of the Bankruptcy Code, including any non-statutory insider, (f) any entity that, after the Effective Date, is controlled directly or indirectly by James Dondero, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, and (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries.

99. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present and former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, employees, subsidiaries, divisions, management companies, and other representatives, in each case solely in their capacity as such .

100. “*Released Parties*” means, collectively, (i) the Reorganized Debtor, (ii) the Claimant Trust, (iii) the Litigation Trust, (iv) the Independent Directors, (v) Strand (solely from the date of appointment of the Independent Directors), (vi) the Committee, (vii) the officers, directors, employees, and agents of the Debtor and Strand in each case (a) as are employed as of the Effective Date or (b) as are employed as of the date hereof and subsequently transferred by the Debtor or terminated by the Debtor without cause prior to the Effective Date, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (i) through (vi); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Released Party.”

101. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

102. “*Reorganized Debtor Assets*” means, without limitation, any limited and general partnership interests held by the Debtor, and any other Assets, including Causes of

Action (including, without limitation, claims for breach of fiduciary duty), that have not been, or cannot be, for any reason, transferred to the Claimant Trust.

103. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

104. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

105. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

106. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

107. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

108. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

109. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

110. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

111. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

112. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

113. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

114. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims, Unpaid Employee Claims, and General Unsecured Claims pursuant to 11 U.S.C. § 510 or Final Order of the Bankruptcy Court.

115. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

116. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

117. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

118. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

119. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

120. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

121. “*Unpaid Employee Claim*” means any Claim filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Hunter Covitz, Jean Paul Sevilla, or Isaac Leventon; *provided, however*, that if any such Claim or portion of such Claim is entitled to priority pursuant to section 507(a) of the Bankruptcy Code, such Claim or portion of such Claim will be a Priority Non-Tax Claim.

122. “*Unpaid Employee Claim Pool*” means the \$3,000,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Unpaid Employee Claims under the Plan as set forth herein. If the total amount of Allowed Unpaid Employee Claims is less than \$3,000,000, any Cash remaining in the Unpaid Employee Claim Pool after all distributions to Allowed Holders of Unpaid Employee Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

123. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

124. “*Voting Record Date*” means [REDACTED].

ARTICLE II.
ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS

A. Administrative Expense Claims

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

B. Professional Fee Claims

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim

will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

C. Priority Tax Claims

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, or (b) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.
CLASSIFICATION AND TREATMENT OF
CLASSIFIED CLAIMS AND EQUITY INTERESTS**

A. Summary

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

B. Summary of Classification and Treatment of Classified Claims and Equity Interests

Class	Claim	Status	Voting Rights
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Unimpaired	Deemed to Accept
3	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
4	Retained Employee Claim	Unimpaired	Deemed to Accept
5	Convenience Claims	Impaired	Entitled to Vote
6	Unpaid Employee Claims	Impaired	Entitled to Vote
7	General Unsecured Claims	Impaired	Entitled to Vote
8	Subordinated Claims	Impaired	Entitled to Vote
9	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
10	Class A Limited Partnership Interests	Impaired	Entitled to Vote

C. Elimination of Vacant Classes

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

D. Impaired/Voting Classes

Claims and Equity Interests in Class 5 through Class 10 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

E. Unimpaired/Non-Voting Classes

Claims in Class 1 through Class 4 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

F. Impaired/Non-Voting Classes

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

G. Cramdown

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any

class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

H. Classification and Treatment of Claims and Equity Interests

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until full and final payment of such Allowed Class 1 Claim is made as provided herein.
- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 2 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 2 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Except with respect to Claims that are treated in accordance with the preceding clause (C), each Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Unimpaired, and the Holders of Class 2 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the

Holders of Class 2 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

3. Class 3 – Priority Non-Tax Claims

- *Classification:* Class 3 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 3 Claim Cash equal to the amount of such Allowed Class 3 Claim.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Retained Employee Claims

- *Classification:* Class 4 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 4 Claim will be Reinstated.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Convenience Claims

- *Classification:* Class 5 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 5 Claim is Allowed on the Effective Date or (ii) the date on which such Class 5 Claim becomes an Allowed Class 5 Claim, each Holder of an Allowed Class 5 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 5 Claim (1) the treatment provided to Allowed Holders of Class 7 General Unsecured Claims if the Holder of such Class 5 Claim makes the GUC Election or (2) an amount in Cash equal to either (a) 75% of the Allowed amount of such Holder's Class 5

Claim or (b) if the total amount of Allowed Class 5 Claims exceeds \$15,000,000, such Holder's Pro Rata share of the Convenience Claims Cash Pool.

- *Impairment and Voting:* Class 5 is Impaired, and the Holders of Class 5 Claims are entitled to vote to accept or reject this Plan.

6. *Class 6 – Unpaid Employee Claims*

- *Classification:* Class 6 consists of the Unpaid Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 6 Claim (1) the treatment provided to Allowed Holders of Class 7 General Unsecured Claims if the Holder of such Class 6 Claim makes the GUC Election or (2) an amount in Cash equal to either (a) 75% of the Allowed amount of such Holder's Class 6 Claim or (b) if the total amount of Allowed Class 6 Claims exceeds \$3,000,000, such Holder's Pro Rata share of the Unpaid Employee Claims Cash Pool.
- *Impairment and Voting:* Class 6 is Impaired, and the Holders of Class 6 Claims are entitled to vote to accept or reject this Plan.

7. *Class 7 – General Unsecured Claims*

- *Classification:* Class 7 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 7 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. *Class 8 – Subordinated Claims*

- *Classification:* Class 8 consists of the Subordinated Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Subordinated Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. *Class 9 – Class B/C Limited Partnership Interests*

- *Classification:* Class 9 consists of the Class B/C Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 9 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class A Limited Partnership Interests

- *Classification:* Class 10 consists of the Class A Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

I. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

J. Subordinated Claims

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Under section 510 of the Bankruptcy Code, upon written notice, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to re-classify, or to seek to subordinate, any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

ARTICLE IV.
MEANS FOR IMPLEMENTATION OF THIS PLAN

A. Summary

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust and (ii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited partner, will ratify New GP LLC’s appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor’s limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor’s current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

B. The Claimant Trust

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and, if applicable, the Litigation Sub-Trust in accordance with the Plan and the beneficial interests therein, which shall be for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant

Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims if the Litigation Sub-Trust is established, for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trust shall also be responsible for resolving all Disputed or disallowed Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets in accordance with the provisions of the Plan and the Claimant Trust Agreement. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

If applicable, on or after the Effective Date, the Claimant Trustee and Litigation Trustee may enter into a separate agreement that shall delineate the powers, rights, and responsibilities of the Litigation Trustee and administration and governance of the Litigation Sub-Trust in a manner consistent with the Claimant Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The members of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of

the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in the Plan, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Claimant Trustee and Claimant Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Disputed or disallowed Claims and the allowance, prosecution, and resolution of objections to Claims and Equity Interests, subject to reporting and oversight by the Claimant Trust Oversight Committee;

(viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and

(ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expenses and shall periodically replenish such reserve, as necessary.

The Trustees, on behalf of the Claimant Trust, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests, without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that if a Litigation Sub-Trust is created upon or after the Effective Date, the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. In all circumstances, the Trustees shall act in the best interests of the Claimant Trust Beneficiaries and with the same fiduciary duties as a chapter 7 trustee.

5. *Compensation and Duties of Trustees.*

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

6. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets on behalf of the Claimant Trust, the Claimant Trustee, Litigation Trustee, and each of their counsel may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Claimant Trustee and Litigation Trustee shall have reasonable access to copies of the Debtor's and Reorganized Debtor's records and information relating to the Claimant Trust Assets, including electronic records, documents or work product related to the Claims and/or Causes of Action that constitute Claimant Trust Assets.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and/or Causes of Action that constitute Claimant Trust Assets until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust.

7. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claim Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

8. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claim Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

9. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

10. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust and any professionals retained by the Claimant Trust from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

11. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

12. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

13. Dissolution of the Claimant Trust.

The Trustees and the Claimant Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of additional Causes of Action is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (b) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (c) all objections to Disputed Claims and Equity Interests are fully resolved, (d) the Reorganized Debtor is dissolved, and (e) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

C. The Reorganized Debtor

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor.

The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Debtor. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

6. *Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets*

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement, the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

D. Company Action

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action

under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

E. Release of Liens, Claims and Equity Interests

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

F. Cancellation of Notes, Certificates and Instruments

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

G. Cancellation of Existing Instruments Governing Security Interests

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

H. Control Provisions

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

I. Treatment of Vacant Classes

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

J. Plan Documents

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

ARTICLE V.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to a Final Order of the Bankruptcy Court entered prior to the Effective Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan Supplement, on the Effective Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Effective Date, the Debtor or the Reorganized Debtor, as applicable, may assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Effective Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Effective Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as Convenience Claims or General Unsecured Claims, as applicable, and shall be treated in accordance with ARTICLE III of this Plan.

C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Effective Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

D. Assumption of Insurance Policies

Upon the Effective Date, the Reorganized Debtor will assume all of the Insurance Policies pursuant to section 365(a) of the Bankruptcy Code and all such Insurance Policies shall vest in the Reorganized Debtor. Unless previously effectuated by separate order entered by the Bankruptcy Court, entry of the Confirmation Order will constitute the Bankruptcy Court’s approval of the Debtor’s foregoing assumption of each of the Insurance Policies and all such Insurance Policies shall continue in full force and effect thereafter in accordance with their respective terms. Notwithstanding anything to the contrary contained in this Plan, confirmation of this Plan will not impair or otherwise modify any rights of the Debtor or the Reorganized Debtor under the Insurance Policies. To the extent that any Insurance Policy is not assumable, it will be Reinstated.

ARTICLE VI.
PROVISIONS GOVERNING DISTRIBUTIONS

A. Dates of Distributions

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the

performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

B. Distribution Agent

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

C. Cash Distributions

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

D. Disputed Claims Reserve

As set forth in the Claimant Trust Agreement, the Claimant Trustee, as Distribution Agent, shall establish, fund, and maintain a reserve at the Claimant Trust. Any payments to be made under this Plan after the Effective Date shall be paid from the Disputed Claims Reserve as set forth in the Claimant Trust Agreement. Upon the resolution of all Disputed Claims, funds remaining in the Disputed Claims Reserve shall be allocated in the manner set forth in the Claimant Trust Agreement.

E. Rounding of Payments

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as “Unclaimed Property” under this Plan.

F. De Minimis Distribution

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.I hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

G. Distributions on Account of Allowed Claims

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

H. General Distribution Procedures

The Distribution Agent, shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

I. Address for Delivery of Distributions

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

J. Undeliverable Distributions and Unclaimed Property

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

K. Withholding Taxes

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld

pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

L. Setoffs

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however*, that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

M. Surrender of Cancelled Instruments or Securities

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

N. Lost, Stolen, Mutilated or Destroyed Securities

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.N of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

ARTICLE VII.
PROCEDURES FOR RESOLVING CONTINGENT,
UNLIQUIDATED AND DISPUTED CLAIMS

A. Filing of Proofs of Claim

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

B. Disputed Claims

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest or any other appropriate motion or adversary proceeding with respect thereto, which shall be litigated to Final Order or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

C. Procedures Regarding Disputed Claims or Disputed Equity Interests

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest, even if a portion of the Claim is not disputed, unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

D. Allowance of Claims and Equity Interests

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity

Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.

ARTICLE VIII.
EFFECTIVENESS OF THIS PLAN

A. Conditions Precedent to the Effective Date

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the

Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have been entered, not subject to stay pending appeal, and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.
- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent

required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.

B. Waiver of Conditions

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

C. Effect of Non-Occurrence of Conditions to Effectiveness

Unless waived as set forth in ARTICLE VIII.B, if the Effective Date of this Plan does not occur within twenty calendar days of entry of the Confirmation Order, the Debtor may withdraw this Plan and, if withdrawn, the Plan shall be of no further force or effect.

D. Dissolution of the Committee

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

ARTICLE IX.

EXCULPATION, INJUNCTION AND RELATED PROVISIONS

A. General

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and

equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

B. Discharge of Claims

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

C. Exculpation

To the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v); *provided, however*, the foregoing will not apply to any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

D. Releases by the Debtor

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured,

existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, or (iv) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

E. Preservation of Rights of Action

1. Maintenance of Causes of Action

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

2. Preservation of All Causes of Action Not Expressly Settled or Released

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

F. Injunction

Upon entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective Related Persons, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether proof of such Claims or Equity Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective Related Persons, are permanently enjoined, on and after the Effective Date, with respect to such Claims and Equity Interests, from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (iv) asserting any right of setoff, directly or indirectly, against any obligation due from the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or against property or interests in property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust; and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

The injunctions set forth herein shall extend to any successors of the Debtor, the Reorganized Debtor, and the Claimant Trust and their respective property and interests in property.

No Entity may commence or pursue a claim or cause of action of any kind against any Protected Party that arose from or is related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice, that such claim or cause of action represents a colorable claim of bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Entity to bring such claim against any such Plan Party. As set forth in ARTICLE XI, the Bankruptcy Court will have sole jurisdiction to adjudicate any such claim for which approval of the Bankruptcy Court to commence or pursue has been granted.

G. Term of Injunctions or Stays

Unless otherwise provided in this Plan, the Confirmation Order, or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

**ARTICLE X.
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.
RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan as legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect

- to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Plan Party as set forth in ARTICLE IX;
 - resolve any claim or cause of action against an Exculpated Party or Plan Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
 - if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
 - if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
 - resolve any issues related to any matters adjudicated in the Chapter 11 Case;
 - ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
 - decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
 - enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts,

- instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
 - issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
 - enforce the terms and conditions of this Plan and the Confirmation Order;
 - resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
 - enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
 - resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
 - enter an order concluding or closing the Chapter 11 Case after the Effective Date.

ARTICLE XII.
MISCELLANEOUS PROVISIONS

A. Payment of Statutory Fees and Filing of Reports

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

B. Modification of Plan

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

C. Revocation of Plan

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

D. Entire Agreement

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

E. Closing of Chapter 11 Case

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

F. Successors and Assigns

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

G. Reservation of Rights

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

H. Further Assurances

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

I. Severability

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered

or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

J. Service of Documents

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Claimant Trust:

[_____]]
Telephone: [_____]]
Facsimile: [_____]]
Attention: [_____]]

If to the Debtor:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Telephone: [_____]]
Facsimile: [_____]]
Attention: James P. Seery, Jr.

with copies to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Attn: Jeffrey N. Pomerantz, Esq.
Ira D. Kharasch, Esq.
Gregory V. Demo, Esq.

If to the Reorganized Debtor:

Highland Capital Management, L.P.
Telephone: [_____]]
Facsimile: [_____]]
Attention: James P. Seery, Jr.

with copies to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Attn: Jeffrey N. Pomerantz, Esq.
Ira D. Kharasch, Esq.
Gregory V. Demo, Esq.

K. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

L. Governing Law

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

M. Tax Reporting and Compliance

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

N. Exhibits and Schedules

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

O. Controlling Document

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

[Remainder of Page Intentionally Blank]

Dated: September 21, 2020

Respectfully submitted,

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: 

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Chief Executive Officer and Chief
Restructuring Officer

Prepared by:

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

In Re: HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-sgj11
UBS Securities LLC, et al	§	
Appellant	§	
vs.	§	
Highland Capital Management, L.P.	§	3:20-CV-03408-G
Appellee	§	

[1273] Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # [1089](#)) Entered on 10/23/2020.

**APPELLANT RECORD
VOLUME 3**

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

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

-----X
In re: : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

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**APPELLANTS' AMENDED STATEMENT OF ISSUE AND
DESIGNATION OF RECORD ON APPEAL**

¹ The last four digits of the Debtor's taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Bankruptcy Court, Suite 700, Dallas, TX 75201.

Pursuant to instructions by the Clerk of Court (*see* Docket No. 1458), Appellants UBS Securities LLC and UBS AG, London Branch (together “UBS” or “Appellants”) submit this amended statement of issue and designation of record on appeal in connection with their appeal of the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* (Bankruptcy Case No. 19-34054-sgj11) [Docket No. 1273], dated October 22, 2020 and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020.

I. STATEMENT OF ISSUE TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court err as a matter of law by approving the Debtor’s claim compromise as fair, equitable, and in the best interest of the estate under Federal Rule of Bankruptcy Procedure 9019?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

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1. The Notice of Appeal:
a. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1339);
b. Amended Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1369).

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2. The Judgment, Order, or Decree Appealed from:
a. Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith (Dkt. 1273).

3. Any Opinion, Findings of Fact, and Conclusions of Law of the Bankruptcy Court:

To the extent included in or underlying the documents identified in part II.5 herein.

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4. The Docket Sheet for Bankruptcy Case No. 19-34054-sgj11.

5. Documents listed below (as described in the Docket Sheet for Bankruptcy Case No.

19-34054-sgj11):

<i>Vol. 2</i>	Date Filed	Docket No.	Description/Docket Text
<i>000301</i>	12/4/2019	1	(2 pgs) Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
<i>000303</i>	12/27/2019	281	(100 pgs; 4 docs) Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) (Hayward, Melissa)
<i>000403</i>	1/9/2020	339	(5 pgs) Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document # 281) Entered on 1/9/2020. (Okafor, M.)
<i>000408</i>	3/2/2020	488	(18 pgs) Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # 421) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
<i>000426</i>	9/21/2020	1079	(61 pgs) Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)944 Chapter 11 plan). (Annable, Zachery)
<i>Vol. 3</i>	9/21/2020	1080	(155 pgs; 3 docs) Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)(Annable, Zachery)
<i>000487</i>	9/23/2020	1089	(26 pgs; 2 docs) Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A--Proposed Order) (Annable, Zachery)
<i>000642</i>	10/15/2020	1173	(11 pgs; 2 docs) Notice (Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1080 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)). (Attachments: # 1 Exhibit C/D to
<i>000668</i>			

Date Filed	Docket No.	Description/Docket Text
		Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/16/2020	1191	(8 pgs) Response opposed to (related document(s): 1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/19/2020	1220	(11 pgs) Reply to (related document(s): 1190 Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/28/2020	1303	(2 pgs) Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 & #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)
10/30/2020	1315	(3 pgs) Order directing UBS' Offer of Proof (RE: related document(s)1089 Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.) ²
6/8/2020	719	SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
6/8/2020	720	SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)

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² This designation includes the underlying documents that UBS submitted to the Bankruptcy Court in hard copy pursuant to this ruling.

	Date Filed	Docket No.	Description/Docket Text
Vol. 4 000823	6/8/2020	721	SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
000824 Thru Vol. 5	8/7/2020	933	(431 pgs; 23 docs) Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page - to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page - to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page - to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page - to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page - to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page - to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page - to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page - to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page - to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page - to be filed under seal upon order from Court)) (Platt, Mark)
Vol. 6 001255	8/26/2020	996	(34 pgs) Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund - Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) (sealed exhibits)
001289	9/23/2020	1090	(94 pgs; 7 docs) Declaration re: (Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) (Annable, Zachery)
001383	10/5/2020	1127	SEALED document regarding: Exhibit B--Cornerstone Monetization Schedule per court order filed by Debtor

Date Filed	Docket No.	Description/Docket Text
		Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1128	SEALED document regarding: Exhibit 2 - Partial Final Award dated March 6, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.).
10/5/2020	1129	SEALED document regarding: Exhibit 3--Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1130	SEALED document regarding: Exhibit 4--Final Award dated April 29, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/16/2020	1190	(42 pgs; 2 docs) Objection to (related document(s): 1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # 1 A-C) (Sosland, Martin)
10/16/2020	1192	(36 pgs; 3 docs) Declaration re: W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)1190 Objection). (Attachments: # 1 Exhibit 1-6 # 2 Attachments A-C) (Sosland, Martin)
7/10/2020	817	Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 812 Hearing held on 7/8/2020. (RE: related document(s)737 Motion to extend or limit the exclusivity period (RE: related document(s)668 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M.

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Date Filed	Docket No.	Description/Docket Text
		Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.), 813 Hearing held on 7/8/2020. (RE: related document(s)747 Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)459 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
8/26/2020	998	Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s)771 Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)

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<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
10/23/2020	1271	Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1256 Hearing held on 10/20/2020. (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), 1257 Hearing held on 10/20/2020. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)

Respectfully submitted,

DATED this 25th day of November 2020.

LATHAM & WATKINS LLP

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*Counsel for UBS Securities LLC and UBS
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CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Appellants' Amended Statement of Issue and Designation of Record on Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 25, 2020.

/s/ Martin Sosland

THIS IS NOT A SOLICITATION OF VOTES TO ACCEPT OR REJECT THE PLAN IN ACCORDANCE WITH BANKRUPTCY CODE SECTION 1125 AND WITHIN THE MEANING OF BANKRUPTCY CODE SECTION 1126, 11 U.S.C. §§ 1125, 1126. THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT HAS BEEN SUBMITTED TO THE BANKRUPTCY COURT FOR APPROVAL UNDER CHAPTER 11 OF THE BANKRUPTCY CODE. THE INFORMATION IN THIS DISCLOSURE STATEMENT IS SUBJECT TO CHANGE.

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

In re:)
) Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹)
) Case No. 19-34054-sgj11
)
Debtor.)
_____)

**DISCLOSURE STATEMENT FOR THE FIRST AMENDED PLAN OF
REORGANIZATION OF HIGHLAND CAPITAL MANAGEMENT, L.P.**

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Counsel for the Debtor and Debtor-in-Possession

¹ 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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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned cases (the “Debtor”), is sending you this document and the accompanying materials (the “Disclosure Statement”) because you are a creditor or interest holder in connection with the *First Amended Chapter 11 Plan of Reorganization of Highland Capital Management, L.P.*, dated September 21, 2020, as the same may be amended from time to time (the “Plan”).² The Debtor has filed a voluntary petition under chapter 11 of title 11 of the United States Code, as amended (the “Bankruptcy Code”).

This Disclosure Statement has not yet been approved by the Bankruptcy Court as containing adequate information within the meaning of section 1125(a) of the Bankruptcy Code. The Debtor intends to seek an order or orders of the Bankruptcy Court (a) approving this Disclosure Statement as containing adequate information and (b) confirming the Plan.

A copy of the Plan is attached hereto as Exhibit A.

The Debtor believes that the Plan is fair and equitable, will maximize the value of the Debtor’s Estate, and is in the best interests of the Debtor and its constituents. Notably, the Plan provides for the transfer of the majority of the Debtor’s Assets to a Claimant Trust. The balance of the Debtor’s Assets, including the management of the Managed Funds, will remain with the Reorganized Debtor. The Reorganized Debtor will be managed by New GP LLC – a wholly-owned subsidiary of the Claimant Trust. This structure will allow for continuity in the Managed Funds and an orderly and efficient monetization of the Debtor’s Assets.

The Claimant Trust, the Litigation Trust, or the Reorganized Debtor, as applicable, will institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action without any further order of the Bankruptcy Court, and the Claimant Trust and Reorganized Debtor, as applicable, will sell, liquidate, or otherwise monetize all Claimant Trust Assets and Reorganized Debtor Assets and resolve all Claims, except as otherwise provided in the Plan, the Claimant Trust Agreement, or the Reorganized Limited Partnership Agreement.

**IMPORTANT INFORMATION ABOUT THIS
DISCLOSURE STATEMENT FOR YOU TO READ**

The Debtor is providing the information in this Disclosure Statement to Holders of Claims and Equity Interests in connection with the Debtor’s Plan. Nothing in this Disclosure Statement may be relied upon or used by any Entity for any purpose other than with respect to confirmation of the Plan. The information contained in this Disclosure Statement is included for purposes of soliciting acceptances to, and confirmation of, the Plan and may not be relied on for any other purpose.

This Disclosure Statement has not been filed for approval with the Securities and Exchange Commission (“SEC”) or any state authority and neither the SEC nor any state authority has passed upon the accuracy or adequacy of this Disclosure Statement or upon

² All capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan. To the extent that a definition of a term in the text of this Disclosure Statement and the definition of such term in the Plan are inconsistent, the definition included in the Plan shall control and govern.

the merits of the Plan. Any representation to the contrary is a criminal offense. This Disclosure Statement does not constitute an offer to sell or the solicitation of an offer to buy securities in any state or jurisdiction.

This Disclosure Statement contains “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward-looking terminology such as “may,” “expect,” “anticipate,” “estimate” or “continue” or the negative thereof or other variations thereon or comparable terminology. The Debtor considers all statements regarding anticipated or future matters to be forward-looking statements. Forward-looking statements may include statements about:

- the effects of insolvency proceedings on the Debtor’s business and relationships with its creditors;
- business strategy;
- financial condition, revenues, cash flows, and expenses;
- financial strategy, budget, projections, and operating results;
- variation from projected operating and financial data;
- substantial capital requirements;
- availability and terms of capital;
- plans, objectives, and expectations;
- the adequacy of the Debtor’s capital resources and liquidity; and
- the Claimant Trust’s or the Reorganized Debtor’s ability to satisfy future cash obligations.

Statements concerning these and other matters are not guarantees of the Claimant Trust’s or Reorganized Debtor’s future performance. There are risks, uncertainties, and other important factors that could cause the Claimant Trust’s or Reorganized Debtor’s actual performance or achievements to be different from those that may be projected. The reader is cautioned that all forward-looking statements are necessarily speculative and there are certain risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward-looking statements. Therefore, any analyses, estimates, or recovery projections may or may not turn out to be accurate.

This Disclosure Statement has been prepared pursuant to section 1125 of the Bankruptcy Code and Bankruptcy Rule 3016 and is not necessarily in accordance with federal or state securities laws or other similar laws.

No legal or tax advice is provided to you by this Disclosure Statement. The Debtor urges each Holder of a Claim or an Equity Interest to consult with its own advisers with respect to any legal, financial, securities, tax or business advice in reviewing this Disclosure Statement, the Plan and each of the proposed transactions contemplated thereby. Further, the Bankruptcy Court's approval of the adequacy of disclosures contained in this Disclosure Statement does not constitute the Bankruptcy Court's approval of the merits of the Plan or a guarantee by the Bankruptcy Court of the accuracy or completeness of the information contained herein.

Pachulski Stang Ziehl & Jones LLP ("PSZ&J") is general insolvency counsel to the Debtor. Development Specialists, Inc. ("DSI") is the Debtor's financial advisor. PSZ&J, DSI, and the Independent Board (as defined below) have relied upon information provided by the Debtor in connection with preparation of this Disclosure Statement. PSZ&J has not independently verified the information contained herein.

This Disclosure Statement contains, among other things, summaries of the Plan, the management of the Reorganized Debtor, the Claimant Trust, certain statutory provisions, certain events in the Debtor's Chapter 11 Case, and certain documents related to the Plan that are attached hereto and incorporated herein by reference or that may be filed later with the Plan Supplement. Although the Debtor believes that these summaries are fair and accurate, these summaries are qualified in their entirety to the extent that the summaries do not set forth the entire text of such documents or statutory provisions or every detail of such events. In the event of any conflict, inconsistency or discrepancy between a description in this Disclosure Statement and the terms and provisions of the Plan or any other documents incorporated herein by reference, the Plan or such other documents will govern and control for all purposes. Except where otherwise specifically noted, factual information contained in this Disclosure Statement has been provided by the Debtor's management. The Debtor does not represent or warrant that the information contained herein or attached hereto is without any material inaccuracy or omission.

In preparing this Disclosure Statement, the Debtor relied on financial data derived from the Debtor's books and records and on various assumptions regarding the Debtor's business. The Debtor's management has reviewed the financial information provided in this Disclosure Statement. Although the Debtor has used its reasonable business judgment to ensure the accuracy of this financial information, the financial information contained in, or incorporated by reference into, this Disclosure Statement has not been audited (unless otherwise expressly provided herein) and no representations or warranties are made as to the accuracy of the financial information contained herein or assumptions regarding the Debtor's business and its, the Reorganized Debtor's, and the Claimant Trust's future results. The Debtor expressly cautions readers not to place undue reliance on any forward-looking statements contained herein.

This Disclosure Statement does not constitute, and may not be construed as, an admission of fact, liability, stipulation or waiver. Rather, this Disclosure Statement shall constitute a statement made in settlement negotiations related to potential contested matters, potential adversary proceedings and other pending or threatened litigation or actions.

No reliance should be placed on the fact that a particular litigation claim or projected objection to a particular Claim or Equity Interest is, or is not, identified in the Disclosure Statement. Except as provided under the Plan, the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, may seek to investigate, file and prosecute Claims and Causes of Action and may object to Claims or Equity Interests after the Confirmation Date or Effective Date of the Plan irrespective of whether the Disclosure Statement identifies any such Claims or Equity Interests or objections to Claims or Equity Interests on the terms specified in the Plan.

The Debtor is generally making the statements and providing the financial information contained in this Disclosure Statement as of the date hereof where feasible, unless otherwise specifically noted. Although the Debtor may subsequently update the information in this Disclosure Statement, the Debtor has no affirmative duty to do so. Holders of Claims and Equity Interests reviewing this Disclosure Statement should not infer that, at the time of their review, the facts set forth herein have not changed since the Disclosure Statement was sent. Information contained herein is subject to completion, modification, or amendment. The Debtor reserves the right to file an amended or modified Plan and related Disclosure Statement from time to time.

The Debtor has not authorized any Entity to give any information about or concerning the Plan other than that which is contained in this Disclosure Statement. The Debtor has not authorized any representations concerning the Debtor or the value of its property other than as set forth in this Disclosure Statement.

Holders of Claims or Equity Interests must rely on their own evaluation of the Debtor and their own analyses of the terms of the Plan in considering the Plan. Importantly, each Holder of a Claim should review the Plan in its entirety and consider carefully all of the information in this Disclosure Statement and any exhibits hereto, including the risk factors described in greater detail in ARTICLE IV herein, "Risk Factors."

If the Plan is confirmed by the Bankruptcy Court and the Effective Date occurs, all Holders of Claims against, and Holders of Equity Interests in, the Debtor will be bound by the terms of the Plan and the transactions contemplated thereby.

The effectiveness of the Plan is subject to certain material conditions precedent described herein and set forth in Article IX of the Plan. There is no assurance that the Plan will be confirmed, or if confirmed, that the conditions required to be satisfied for the Plan to become effective will be satisfied (or waived).

EXHIBITS

EXHIBIT A – Plan of Reorganization

EXHIBIT B – Organizational Chart of the Debtor

EXHIBIT C – Liquidation Analysis

EXHIBIT D – Financial Projections

THE DEBTOR HEREBY ADOPTS AND INCORPORATES EACH EXHIBIT
ATTACHED TO THIS DISCLOSURE STATEMENT BY REFERENCE AS THOUGH
FULLY SET FORTH HEREIN.

ARTICLE I.
EXECUTIVE SUMMARY

This Disclosure Statement is provided for informational purposes only.

In the opinion of the Debtor, the Plan is preferable to the alternatives described in this Disclosure Statement because it provides for the highest distributions to the Debtor's creditors and interest holders. The Debtor believes that any delay in confirmation of the Plan would result in significant administrative expenses resulting in less value available to the Debtor's constituents. In addition, any alternative other than confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to Holders of Allowed Claims and Equity Interests than that which is proposed under the Plan. Accordingly, the Debtor recommends that all Holders of Claims and Equity Interests support confirmation of the Plan.

This Executive Summary is being provided to Holders of Allowed Claims and Equity Interests as an overview of the material items addressed in the Disclosure Statement and the Plan, which is qualified by reference to the entire Disclosure Statement and by the actual terms of the Plan (including all exhibits attached hereto and to the Plan and the Plan Supplement), and should not be relied upon for a comprehensive discussion of the Disclosure Statement and/or the Plan. Section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance or rejection of the plan of reorganization or liquidation. As such, this Disclosure Statement is being submitted in accordance with the requirements of section 1125 of the Bankruptcy Code. This Disclosure Statement includes, without limitation, information about:

- the Debtor's operating and financial history;
- the significant events that have occurred to date;
- the Confirmation process; and
- the terms and provisions of the Plan, including key aspects of the Claimant Trust and the Reorganized Debtor, certain effects of Confirmation of the Plan, certain risk factors relating to the Plan, and the manner in which distributions will be made under the Plan.

The Debtor believes that any alternative to Confirmation of the Plan would result in significant delays, litigation, and additional costs, and ultimately would diminish the Debtor's value. **Accordingly, the Debtor strongly supports confirmation of the Plan.**

A. Summary of the Plan

The Plan represents a significant achievement for the Debtor. Through the Plan, the Debtor's Secured Creditors will be paid in full, and certain of the Debtor's unsecured creditors will receive Cash on or soon after the Effective Date. The balance of the Debtor's unsecured

creditors – representing primarily litigation claims – and the Debtor’s limited and general partners will receive contingent beneficial interests in the Claimant Trust.

The Claimant Trust, through the Plan, will receive the majority of the Debtor’s assets, including Causes of Action. The assets being transferred to the Claimant Trust are referred to, collectively, as the Claimant Trust Assets. The Claimant Trust will – for the benefit of the Claimant Trust Beneficiaries – monetize the Claimant Trust Assets, pursue the Causes of Action, and work to conclude the various lawsuits and litigation claims pending against the Estate.

The Plan also provides for the reorganization of the Debtor. This will be accomplished by the cancellation of the Debtor’s current Equity Interests, which consist of partnership interests held by: The Dugaboy Investment Trust;³ the Hunter Mountain Investment Trust (“Hunter Mountain”); Mark Okada, personally and through family trusts; and Strand, the Debtor’s general partner. On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC’s appointment as general partner of the Reorganized Debtor. The Reorganized Debtor will be managed by the Claimant Trust, as the managing member of New GP LLC.

The Reorganized Debtor will oversee the monetization of the Reorganized Debtor Assets, which consist of, among other Assets, the management of the Managed Funds. The net proceeds from the Reorganized Debtor Assets will ultimately be distributed to the Claimant Trust and available for distribution to the Claimant Trust Beneficiaries.

The following is an overview of certain other material terms of the Plan:

- Allowed Priority Non-Tax Claims will be paid in full;
- Allowed Retained Employee Claims will be Reinstated;
- Allowed Convenience Claims will receive either (i) 75% of their Allowed Claim or (ii) if the total amount of Allowed Convenience Claims exceeds \$15,000,000, such Holder’s Pro Rata share of the Convenience Claims Cash Pool (*i.e.*, \$15,000,000). Holders of Convenience Claims can elect to be treated for all purposes as General Unsecured Claims by making the GUC Election on their Ballots.
- Allowed Unpaid Employee Claims will receive either (i) 75% of their Allowed Claim or (ii) if the total amount of Allowed Unpaid Employee Claims exceeds \$3,000,000, such Holder’s Pro Rata share of the Unpaid Employee Claims Cash Pool (*i.e.*, \$3,000,000). Holders of Unpaid Employee Claims can elect to be

³ The Dugaboy Investment Trust is a Delaware trust created to manage the assets of James Dondero and his family.

treated for all purposes as General Unsecured Claims by making the GUC Election on their Ballots.

- Allowed General Unsecured Claims and Allowed Subordinated Claims will receive their Pro Rata share of Claimant Trust Interests. The Claimant Trust Interests distributed to Allowed General Unsecured Claims will be senior to those distributed to Allowed Subordinated Claims as set forth in the Claimant Trust Agreement; and
- Allowed Class B/C Limited Partnership Interests and Allowed Class A Limited Partnership Interests will receive their Pro Rata share of the Contingent Claimant Trust Interests.

B. An Overview of the Chapter 11 Process

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Pursuant to chapter 11 of the Bankruptcy Code, a debtor may remain in possession of its assets and business and attempt to reorganize its business for the benefit of such debtor, its creditors, and other parties in interest. A plan of reorganization sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan of reorganization by a bankruptcy court makes the plan binding upon the debtor and any creditor or interest holder in the debtor, whether or not such creditor or interest holder (i) is impaired under or has accepted the plan or (ii) receives or retains any property under the plan.

The commencement of a Chapter 11 case creates an estate comprised of all of the legal and equitable interests of a debtor in property as of the date that the bankruptcy petition is filed. Sections 1107 and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a “debtor-in-possession,” unless the bankruptcy court orders the appointment of a trustee. The filing of a bankruptcy petition also triggers the automatic stay provisions of section 362 of the Bankruptcy Code which provide, among other things, for an automatic stay of all attempts to collect prepetition claims from a debtor or otherwise interfere with its property or business. Except as otherwise ordered by the bankruptcy court, the automatic stay generally remains in full force and effect until the consummation of a plan of reorganization or liquidation, following confirmation of such plan of reorganization.

The Bankruptcy Code provides that upon commencement of a chapter 11 bankruptcy case, the Office of the United States Trustee may appoint a committee of unsecured creditors and may, in its discretion, appoint additional committees of creditors or of equity interest holders if necessary to assure adequate representation. Please see ARTICLE II for a discussion of the U.S. Trustee and the statutory committees.

Upon the commencement of a chapter 11 bankruptcy case, all creditors and equity interest holders generally have standing to be heard on any issue in the chapter 11 proceedings pursuant to section 1109(b) of the Bankruptcy Code.

The formulation and confirmation of a plan is the principal objective of a chapter 11 case. The plan sets forth the means of satisfying the claims against and equity interests in the debtor.

C. Purpose and Effect of the Plan

1. The Plan of Reorganization

The Debtor is reorganizing pursuant to chapter 11 of the Bankruptcy Code. As a result, the Confirmation of the Plan means that the Debtor's business will continue to operate following confirmation of the Plan through the Claimant Trust and the Reorganized Debtor to monetize assets for distribution to Holders of Allowed Claims. The Claimant Trust will hold, and manage the efficient monetization of, the Claimant Trust Assets. The Claimant Trust will also manage the Reorganized Debtor through the Claimant Trust's ownership of the Reorganized Debtor's general partner, New GP LLC. The Claimant Trust will also be the sole limited partner in the Reorganized Debtor. The Reorganized Debtor will manage the wind down of the Managed Funds as well as the monetization of the balance of the Reorganized Debtor Assets. The Claimant Trust may also establish a Litigation Sub-Trust in accordance with the Plan, which will also be for the benefit of the Claimant Trust Beneficiaries. If established, the Litigation Sub-Trust will receive the Estate Claims and a Litigation Trustee will be appointed by the Committee. The Litigation Trustee shall be the exclusive trustee of the Estate Claims included in the Claimant Trust Assets subject to oversight by the Claimant Trust Oversight Committee

A bankruptcy court's confirmation of a plan binds the debtor, any entity acquiring property under the plan, any holder of a claim or an equity interest in a debtor and all other entities as may be ordered by the bankruptcy court in accordance with the applicable provisions of the Bankruptcy Code to the terms and conditions of the confirmed plan, whether or not such Entity voted on the plan or affirmatively voted to reject the plan.

2. Plan Overview

The Plan provides for the classification and treatment of Claims against and Equity Interests in the Debtor. For classification and treatment of Claims and Equity Interests, the Plan designates Classes of Claims and Classes of Equity Interests. These Classes and Plan treatments take into account the differing nature and priority under the Bankruptcy Code of the various Claims and Equity Interests.

The following chart briefly summarizes the classification and treatment of Claims and Equity Interests under the Plan.⁴ Amounts listed below are estimated.

In accordance with section 1122 of the Bankruptcy Code, the Plan provides for eight Classes of Claims against and/or Equity Interests in the Debtor.

The projected recoveries set forth in the table below are estimates only and therefore are subject to change. For a complete description of the Debtor's classification

⁴ This chart is only a summary of the classification and treatment of Claims and Equity Interests under the Plan. References should be made to the entire Disclosure Statement and the Plan for a complete description.

and treatment of Claims or Equity Interests, reference should be made to the entire Plan and the risk factors described in ARTICLE IV below. For certain classes of Claims, the actual amount of Allowed Claims could be materially different than the estimated amounts shown in the table below.

Class	Type of Claim or Interest	Estimated Prepetition Claim Amount	Impaired	Entitled to Vote	Estimated Recovery
1	Jefferies Secured Claim	\$0.00	No	No	100%
2	Frontier Secured Claim	\$5,209,964	No	No	100%
3	Priority Non-Tax Claim	\$11,839	No	No	100%
4	Retained Employee Claim	TBD	No	No	100%
5	Convenience Claims	TBD	Yes	Yes	75%
6	Unpaid Employee Claims	TBD	Yes	Yes	75%
7	General Unsecured Claims	TBD	Yes	Yes	TBD
8	Subordinated Claims	TBD	Yes	Yes	TBD
9	Class B/C Limited Partnership Interests	N/A	Yes	Yes	TBD
10	Class A Limited Partnership Interests	N/A	Yes	Yes	TBD

3. Voting on the Plan

Under the Bankruptcy Code, acceptance of a plan by a Class of Claims or Equity Interests is determined by calculating the number and the amount of Claims voting to accept, based on the actual total Allowed Claims or Equity Interests voting on the Plan. Acceptance by a Class of Claims requires more than one-half of the number of total Allowed Claims in the Class to vote in favor of the Plan and at least two-thirds in dollar amount of the total Allowed Claims in the Class to vote in favor of the Plan. Acceptance by a Class of Equity Interests requires at least two-thirds in amount of the total Allowed Equity Interests in the Class to vote in favor of the Plan.

Under the Bankruptcy Code, only Classes of Claims or Equity Interests that are “Impaired” and that are not deemed as a matter of law to have rejected a plan under Section 1126 of the Bankruptcy Code are entitled to vote to accept or reject the Plan. Any Class that is “Unimpaired” is not entitled to vote to accept or reject a plan and is conclusively presumed to have accepted the Plan. As set forth in Section 1124 of the Bankruptcy Code, a Class is

“Impaired” if the legal, equitable, or contractual rights attaching to the claims or equity interests of that Class are modified or altered.

Pursuant to the Plan, Claims and Equity Interests in Class 5 through Class 10 are Impaired by the Plan, and only the Holders of Claims and Equity Interests in those Classes are entitled to vote to accept or reject the Plan. Whether a Holder of a Claim or Equity Interest in Class 5 through Class 10 may vote to accept or reject the Plan will also depend on whether the Holder held such Claim or Equity Interest as of [REDACTED] (the “Voting Record Date”). The Voting Record Date and all of the Debtor’s solicitation and voting procedures shall apply to all of the Debtor’s Creditors and other parties in interest.

Pursuant to the Plan, Claims in Class 1 through Class 4 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

Pursuant to the Plan, there are no Classes that will not receive or retain any property and no Classes are deemed to reject the Plan.

4. Confirmation of the Plan

(a) Confirmation Generally

“Confirmation” is the technical term for the Bankruptcy Court’s approval of a plan of reorganization or liquidation. The timing, standards and factors considered by the Bankruptcy Court in deciding whether to confirm a plan of reorganization are discussed below.

The confirmation of a plan by the Bankruptcy Court binds the debtor, any issuer of securities under a plan, any person acquiring property under a plan, any creditor or equity interest holder of a debtor, and any other person or entity as may be ordered by the Bankruptcy Court in accordance with the applicable provisions of the Bankruptcy Code. Subject to certain limited exceptions, the order issued by the Bankruptcy Court confirming a plan discharges a debtor from any debt that arose before the confirmation of such plan and provides for the treatment of such debt in accordance with the terms of the confirmed plan.

(b) The Confirmation Hearing

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on Confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to Confirmation of the Plan.

The Debtor will provide notice of the Confirmation Hearing to all necessary parties. The Confirmation Hearing may be adjourned from time to time without further notice except for an announcement of the adjourned date made at the Confirmation Hearing of any adjournment thereof.

5. Confirming and Effectuating the Plan

It is a condition to the Effective Date of the Plan that the Bankruptcy Court shall have entered the Confirmation Order in form and substance reasonably acceptable to the Debtor and the Committee. Certain other conditions contained in the Plan must be satisfied or waived pursuant to the provisions of the Plan.

6. Rules of Interpretation

The following rules for interpretation and construction shall apply to this Disclosure Statement: (1) capitalized terms used in the Disclosure Statement and not otherwise defined shall have the meaning ascribed to such terms in the Plan; (2) unless otherwise specified, any reference in this Disclosure Statement to a contract, instrument, release, indenture, or other agreement or document shall be a reference to such document in the particular form or substantially on such terms and conditions described; (3) unless otherwise specified, any reference in this Disclosure Statement to an existing document, schedule, or exhibit, whether or not filed, shall mean such document, schedule, or exhibit, as it may have been or may be amended, modified, or supplemented; (4) any reference to an entity as a Holder of a Claim or Equity Interest includes that Entity's successors and assigns; (5) unless otherwise specified, all references in this Disclosure Statement to Sections are references to Sections of this Disclosure Statement; (6) unless otherwise specified, all references in this Disclosure Statement to exhibits are references to exhibits in this Disclosure Statement; (7) unless otherwise set forth in this Disclosure Statement, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (8) any term used in capitalized form in this Disclosure Statement that is not otherwise defined in this Disclosure Statement or the Plan but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

7. Distribution of Confirmation Hearing Notice and Solicitation Package to Holders of Claims and Equity Interests

As set forth above, Holders of Claims in Class 1 through Class 4 are not entitled to vote on the Plan. As a result, such parties will not receive solicitation packages or ballots but, instead, will receive this a notice of non-voting status, a notice of the Confirmation Hearing, and instructions on how to receive a copy of the Plan and Disclosure Statement.

The Debtor, with the approval of the Bankruptcy Court, has engaged Kurtzman Carson Consultants LLC (the "Voting Agent") to serve as the voting agent to process and tabulate Ballots for each Class entitled to vote on the Plan and to generally oversee the voting process. The following materials shall constitute the solicitation package (the "Solicitation Package"):

- This Disclosure Statement, including the Plan and all other Exhibits annexed thereto;
- The Bankruptcy Court order approving this Disclosure Statement (the "Disclosure Statement Order") (excluding exhibits);

- The notice of, among other things, (i) the date, time, and place of the hearing to consider Confirmation of the Plan and related matters and (ii) the deadline for filing objections to Confirmation of the Plan (the “Confirmation Hearing Notice”);
- A single Ballot, to be used in voting to accept or to reject the Plan and applicable instructions with respect thereto (the “Voting Instructions”);
- A pre-addressed, postage pre-paid return envelope; and
- Such other materials as the Bankruptcy Court may direct or approve.

The Debtor, through the Voting Agent, will distribute the Solicitation Package in accordance with the Disclosure Statement Order. The Solicitation Package is also available at the Debtor’s restructuring website at www.kccllc.net/hcmlp.

Not less than one week prior to the Confirmation Hearing, the Debtor intends to file a Plan Supplement that includes, among other things, the form of Claimant Trust Agreement, Reorganized Limited Partnership Agreement, New GP LLC Documents, and the identity of the initial members of the Claimant Trust Oversight Committee. The Plan Supplement will also include a schedule of the Causes of Action belonging to the Debtor’s Estate. As the Plan Supplement is supplemented, such supplemented documents will be made available on the Debtor’s restructuring website at www.kccllc.net/hcmlp.

If you are the Holder of a Claim or Equity Interest and believe that you are entitled to vote on the Plan, but you did not receive a Ballot or your Ballot is damaged or illegible, or if you have any questions concerning voting procedures, you should contact the Voting Agent by writing to Kurtzman Carson Consultants LLC, via email at HighlandInfo@kccllc.com and reference “Highland Capital Management, L.P.” in the subject line or by telephone at toll free: (877) 573-3984, or international: (310) 751-1829. If your Claim or Equity Interest is subject to a pending claim objection and you wish to vote on the Plan, you must file a motion pursuant to Bankruptcy Rule 3018 with the Bankruptcy Court for the temporary allowance of your Claim or Equity Interest for voting purposes or you will not be entitled to vote to accept or reject the Plan. Any such motion must be filed so that it is heard in sufficient time prior to the Voting Deadline to allow for your vote to be tabulated.

THE DEBTOR, THE REORGANIZED DEBTOR, AND THE CLAIMANT TRUSTEE, AS APPLICABLE, RESERVE THE RIGHT THROUGH THE CLAIM OBJECTION PROCESS TO OBJECT TO OR SEEK TO DISALLOW ANY CLAIM OR EQUITY INTEREST FOR DISTRIBUTION PURPOSES.

8. Instructions and Procedures for Voting

All votes to accept or reject the Plan must be cast by using the Ballots enclosed with the Solicitation Packages or otherwise provided by the Debtor or the Voting Agent. No votes other than ones using such Ballots will be counted, except to the extent the Bankruptcy Court orders otherwise. The Bankruptcy Court has fixed [REDACTED] as the Voting Record Date for the

determination of the Holders of Claims and Equity Interests who are entitled to (a) receive a copy of this Disclosure Statement and all of the related materials and (b) vote to accept or reject the Plan. The Voting Record Date and all of the Debtor's solicitation and voting procedures shall apply to all of the Debtor's Creditors and other parties in interest.

After carefully reviewing the Plan, this Disclosure Statement, and the detailed instructions accompanying your Ballot, you are asked to indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the accompanying Ballot.

The deadline to vote on the Plan is [REDACTED] at 4:00 p.m. (prevailing Central Time) (the "Voting Deadline"). In order for your vote to be counted, your Ballot must be properly completed in accordance with the Voting Instructions on the Ballot, and received no later than the Voting Deadline at the following address, as applicable:

If by first class mail, personal delivery, or overnight mail to:

**HCMLP Ballot Processing Center
c/o KCC
222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245**

If by electronic voting:

You may submit your Ballot via the Balloting Agent's online portal. Please visit <http://www.kccllc.net/hcmlp> and click on the "Submit Electronic Ballot" section of the website and follow the instructions to submit your Ballot. IMPORTANT NOTE: You will need the Unique Electronic Ballot ID Number and the Unique Electronic Ballot PIN Number set forth on your customized ballot in order to vote via the Balloting Agent's online portal. Each Electronic Ballot ID Number is to be used solely for voting on those Claims or Interests on your electronic ballot. You must complete and submit an electronic ballot for each Electronic Ballot ID Number you receive, as applicable. Parties who cast a Ballot using the Balloting Agent's online portal should NOT also submit a paper Ballot.

Only the Holders of Claims and Equity Interests in Class 5 through Class 10 as of the Voting Record Date are entitled to vote to accept or reject the Plan, and they may do so by completing the appropriate Ballots and returning them in the envelope provided to the Voting Agent so as to be actually received by the Voting Agent by the Voting Deadline. Each Holder of a Claim and Equity Interest must vote its entire Claim or Equity Interest, as applicable, within a particular Class either to accept or reject the Plan and may not split such votes. If multiple Ballots are received from the same Holder with respect to the same Claim or Equity Interest prior to the Voting Deadline, the last timely received, properly executed Ballot will be deemed to reflect that voter's intent and will supersede and revoke any prior Ballot. The Ballots will clearly indicate the appropriate return address. It is important to follow the specific instructions provided on each Ballot.

ALL BALLOTS ARE ACCOMPANIED BY VOTING INSTRUCTIONS. IT IS IMPORTANT THAT THE HOLDER OF A CLAIM OR EQUITY INTEREST IN THE

CLASSES ENTITLED TO VOTE FOLLOW THE SPECIFIC INSTRUCTIONS PROVIDED WITH EACH BALLOT.

If you have any questions about (a) the procedure for voting your Claim or Equity Interest, (b) the Solicitation Package that you have received, or (c) the amount of your Claim or Equity Interest, or if you wish to obtain an additional copy of the Plan, this Disclosure Statement, or any appendices or Exhibits to such documents, please contact the Voting Agent at the address specified above. Copies of the Plan, Disclosure Statement and other documents filed in these Chapter 11 Case may be obtained free of charge on the Voting Agent's website at www.kccllc.net/hcmlp or by calling toll free at: (877) 573-3984, or international at: (310) 751-1829. You may also obtain copies of pleadings filed in the Debtor's case for a fee via PACER at pacer.uscourts.gov. Subject to any rules or procedures that have or may be implemented by the Court as a result of the COVID 19 Pandemic, documents filed in this case may be examined between the hours of 8:00 a.m. and 4:00 p.m., prevailing Central Time, Monday through Friday, at the Office of the Clerk of the Bankruptcy Court, Earle Cabell Federal Building, 1100 Commerce Street, Room 1254, Dallas, Texas 75242-1496.

The Voting Agent will process and tabulate Ballots for the Classes entitled to vote to accept or reject the Plan and will file a voting report (the "Voting Report") by [REDACTED]. The Voting Report will, among other things, describe every Ballot that does not conform to the Voting Instructions or that contains any form of irregularity, including, but not limited to, those Ballots that are late, illegible (in whole or in material part), unidentifiable, lacking signatures, lacking necessary information, or damaged.

THE DEBTOR URGES HOLDERS OF CLAIMS AND EQUITY INTERESTS WHO ARE ENTITLED TO VOTE TO TIMELY RETURN THEIR BALLOTS AND TO VOTE TO ACCEPT THE PLAN BY THE VOTING DEADLINE.

9. The Confirmation Hearing

The Bankruptcy Court has scheduled Confirmation Hearing Dates on December 3 and December 4, 2020, at 9:30 a.m. prevailing Central time. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtor without further notice other than by such adjournment being announced in open court or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to section 1127 of the Bankruptcy Code, prior to, during or as a result of the Confirmation Hearing, without further notice to parties-in-interest.

10. The Deadline for Objecting to Confirmation of the Plan

The Bankruptcy Court has set a deadline of [REDACTED] at 4:00 p.m. prevailing Central time, for the filing of objections to confirmation of the Plan (the "Confirmation Objection Deadline"). Any objection to confirmation of the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name of the objecting party and the amount and nature of the Claim of such Entity or the amount of Equity Interests held by such Entity; (iv) state with particularity the legal and factual bases and nature of any objection to the

Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed, contemporaneously with a proof of service, with the Bankruptcy Court and served so that it is **actually received** no later than the Confirmation Objection Deadline by the parties set forth below (the “Notice Parties”).

CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE. INSTRUCTIONS WITH RESPECT TO THE CONFIRMATION HEARING AND DEADLINES WITH RESPECT TO CONFIRMATION WILL BE INCLUDED IN THE NOTICE OF CONFIRMATION HEARING APPROVED BY THE BANKRUPTCY COURT.

11. Notice Parties

- Debtor: Highland Capital Management, L.P., 300 Crescent Court, Suite 700, Dallas, Texas 75201 (Attn: James P. Seery, Jr.);
- Counsel to the Debtor: Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Boulevard, 13th Floor, Los Angeles, California 90067-4003 (Attn: Jeffrey Pomerantz, Esq.; Ira Kharasch, Esq., and Gregory Demo, Esq.);
- Counsel to the Committee: Sidley Austin, LLP, One South Dearborn, Chicago, Illinois 60603 (Attn: Matthew Clemente, Esq., and Alyssa Russell, Esq.); and
- Office of the United States Trustee, 1100 Commerce Street, Room 976, Dallas, Texas 75242 (Attn: Lisa Lambert, Esq.).

12. Effect of Confirmation of the Plan

The Plan contains certain provisions relating to (a) the compromise and settlement of Claims and Equity Interests and (b) exculpation of certain parties.

The Plan shall bind all Holders of Claims against and Equity Interests in the Debtor to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder (i) will receive or retain any property or interest in property under the Plan, (ii) has filed a proof of claim in the Chapter 11 Case, or (iii) did not vote to accept or reject the Plan.

D. Effectiveness of the Plan

It will be a condition to the Effective Date of the Plan that all provisions, terms and conditions of the Plan are approved in the Confirmation Order unless otherwise satisfied or waived pursuant to the provisions of Article IX of the Plan. Following confirmation, the Plan will go into effect on the Effective Date.

E. RISK FACTORS

Each Holder of a Claim or an Equity Interest is urged to consider carefully all of the information in this Disclosure Statement, including the risk factors described in ARTICLE IV herein titled, “Risk Factors.”

ARTICLE II. BACKGROUND TO THE CHAPTER 11 CASE AND SUMMARY OF BANKRUPTCY PROCEEDINGS TO DATE

A. Description and History of the Debtor’s Business

Prior to the Petition Date, the Debtor was a multibillion-dollar global alternative investment manager founded in 1993 by James Dondero and Mark Okada. A pioneer in the leveraged loan market, the firm evolved over twenty-five years, building on its credit expertise and value-based approach to expand into other asset classes.

As of the Petition Date, the Debtor operated a diverse investment platform, serving both institutional and retail investors worldwide. In addition to high-yield credit, the Debtor’s investment capabilities include public equities, real estate, private equity and special situations, structured credit, and sector- and region-specific verticals built around specialized teams. Additionally, the Debtor provided shared services to its affiliated registered investment advisers.

B. The Debtor’s Corporate Structure

The Debtor is headquartered in Dallas, Texas. The Debtor itself is a Delaware limited partnership and one of the principal operating arms of the Debtor’s business. As of the Petition Date, the Debtor employed approximately 76 people, including executive-level management employees, finance and legal staff, investment professionals, and back-office accounting and administrative personnel.

Pursuant to various contractual arrangements, the Debtor, as of the Petition Date, provided money management and advisory services for approximately \$2.5 billion of assets under management shared services for approximately \$7.5 billion of assets managed by a variety of affiliated and unaffiliated entities, including other affiliated registered investment advisers. None of these affiliates filed for Chapter 11 protection. As of June 30, 2020, the Debtor provided money management and advisory services for approximately \$1.725 billion of assets under management and shared services for approximately \$7.115 billion of assets managed by a variety of affiliated and unaffiliated entities, including other affiliated registered investment advisers. Further, on the Petition Date, the value of the Debtor’s Assets totaled approximately \$566.5 million. As of June 30, 2020, the Debtor’s Assets totaled approximately \$351.7 million. The drop in the value of the Debtor’s Assets and assets under management was caused, in part, by the COVID-19 global pandemic.

The Debtor’s organizational chart is attached hereto as Exhibit B. The organizational chart is not all inclusive and certain entities have been excluded for the sake of brevity.

C. Business Overview

The Debtor's primary means of generating revenue has historically been from fees collected for the management and advisory services provided to funds that it manages, plus fees generated for services provided to its affiliates. For additional liquidity, the Debtor, prior to the Petition Date, would sell liquid securities in the ordinary course held through its prime brokerage account at Jefferies, LLC ("Jefferies"), as described in additional detail below. The Debtor would also, from time to time, sell assets at non-Debtor subsidiaries and distribute those proceeds to the Debtor in the ordinary course of business. During calendar year 2018, the Debtor's stand-alone annual revenue totaled approximately \$50 million. During calendar year 2019, the Debtor's stand-alone revenue totaled approximately \$36.1 million.

D. Prepetition Capital Structure

1. Jefferies Margin Borrowings (Secured)

The Debtor is party to that certain *Prime Brokerage Customer Agreement* with Jefferies dated May 24, 2013 (the "Brokerage Agreement"). Pursuant to the terms of the Brokerage Agreement and related documents, the Debtor maintains a prime brokerage account with Jefferies (the "Prime Account"). A prime brokerage account is a unique type of brokerage account that allows sophisticated investors to, among other things, borrow both money on margin to purchase securities and common stock to facilitate short positions. A prime brokerage account also serves as a custodial account and holds client securities in the prime broker's street name.

As of the Petition Date, the Debtor held approximately \$57 million of equity in the liquid and illiquid securities (the "Securities") in the Prime Account. Pursuant to the Brokerage Agreement, the Debtor granted a lien in favor of Jefferies in the Securities and all of the proceeds thereof.

However, because of the economic distress caused by the COVID-19 global pandemic, the value of the Securities held in the Prime Account dropped since the Petition Date, and Jefferies has exerted significant pressure on the Debtor to liquidate the Securities to satisfy margin calls. As of June 30, 2020, the equity value of the Securities in the Prime Account was approximately \$26.5 million, and the Debtor owed no amounts to Jefferies.

2. The Frontier Bank Loan (Secured)

The Debtor and Frontier State Bank ("Frontier Bank") are parties to that certain *Loan Agreement* dated as of August 17, 2015 (the "Original Frontier Loan Agreement"), pursuant to which Frontier Bank loaned to the Debtor the aggregate principal amount of \$9.5 million. On March 29, 2018, the Debtor and Frontier Bank entered into that certain First Amended and Restated Loan Agreement (the "Amended Frontier Loan Agreement"), amending and superseding the Original Frontier Loan Agreement. Pursuant to the Amended Frontier Loan Agreement, Frontier Bank made an additional \$1 million loan to the Debtor (together with the borrowings under the Original Frontier Loan Agreement, the "Frontier Loan"). The Frontier Loan matures on August 17, 2021.

Pursuant to that certain Security and Pledge Agreement dated August 17, 2015, between Frontier Bank and the Debtor, as amended by the Amended Frontier Loan Agreement, the Debtor's obligations under the Frontier Loan are secured by 171,724 shares of voting common stock of MGM Holdings, Inc. (collectively, the "Frontier Collateral").

The aggregate principal balance of the Frontier Loan was approximately \$5.2 million. As of June 30, 2020, the value of the Frontier Collateral was approximately \$14.1 million, and approximately \$235,000 in postpetition interest had accrued.

3. Other Unsecured Obligations

As discussed below, the Plan provides for four Classes of unsecured claims: (i) the Convenience Claims, (ii) the Unpaid Employee Claims, (iii) the General Unsecured Claims, and (iv) the Subordinated Claims.

The Debtor has various substantial litigation claims asserted against it, which have been classified as General Unsecured Claims. In addition, as of the Petition Date, the Debtor had ordinary course trade debt, unaccrued employee bonus obligations and loan repayment, and contractual commitments to various affiliated and unaffiliated non-Debtor entities for capital calls, contributions, and other potential reimbursement or funding obligations that were potentially in the tens of millions of dollars. The Debtor is still assessing these claims and its liability for such amounts. These Claims have been classified as Convenience Claims and Subordinated Claims.

Based on the Schedules (as defined below) and the proofs of claim that have been filed, the Debtor estimates that non-subordinated, unsecured Claims against the Debtor, including claims filed by certain Related Entities and affiliates but excluding claims filed by Acis, UBS, the Redeemer Committee, Patrick Daugherty, Integrated Financial Associates, Inc. ("IFA"), Hunter Mountain, and the HarbourVest Entities⁵ should total approximately \$26.1 million. This estimate, however, does not account for any additional General Unsecured Claims against the Debtor arising from the rejection of executory contracts and leases pursuant to the Plan. Further, the Debtor anticipates that the Claimant Trustee or the Reorganized Debtor, as applicable, will object to a number of the filed proofs of claim. Thus, the total amount of Allowed unsecured Claims may vary substantially from the estimates set forth herein.

4. Equity Interests

The Debtor is a Delaware limited partnership. As of the Petition Date, the Debtor had three classes of limited partnership interest (Class A, Class B, and Class C). The Class A interests were held by The Dugaboy Investment Trust, Mark Okada, personally and through family trusts, and Strand, the Debtor's general partner. The Class B and C interests were held by Hunter Mountain.

⁵ "HarbourVest Entities" means HarbourVest 2017 Global Fund, L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment, L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners, L.P.

In the aggregate, the Debtor's limited partnership interests were held: (a) 99.5% by Hunter Mountain; (b) 0.1866% by The Dugaboy Investment Trust, (c) 0.0627% by Mark Okada, personally and through family trusts, and (d) 0.25% by Strand.

E. SEC Filings

The Debtor is an investment adviser registered with the SEC as required by the Investment Advisers Act of 1940. As a registered investment adviser, the Debtor is required to file (at least annually) a Form ADV. The Debtor's current Form ADV is available at <https://adviserinfo.sec.gov/>.

Following the Effective Date, it is anticipated that the Reorganized Debtor will maintain its registration with the SEC as a registered investment adviser.

F. Events Leading Up to the Debtor's Bankruptcy Filings

The Chapter 11 Case was precipitated by the rendering of an Arbitration Award (as that term is defined below) against the Debtor on May 9, 2019, by a panel of the American Arbitration Association (the "Panel"), in favor of the Redeemer Committee of the Highland Crusader Fund (the "Redeemer Committee").

The Debtor was formerly the investment manager for the Highland Crusader Funds (the "Crusader Funds") that were formed between 2000 and 2002. In September and October 2008, as the financial markets in the United States began to fail, the Debtor was flooded with redemption requests from Crusader Funds' investors, as the Crusader Funds' assets lost significant value.

On October 15, 2008, the Debtor placed the Crusader Funds in wind-down, thereby compulsorily redeeming the Crusader Funds' limited partnership interests. The Debtor also declared that it would liquidate the Crusader Funds' remaining assets and distribute the proceeds to investors.

However, disputes concerning the distribution of the assets arose among certain investors. After several years of negotiations, a Joint Plan of Distribution of the Crusader Funds (the "Crusader Plan"), and the Scheme of Arrangement between Highland Crusader Fund and its Scheme Creditors (the "Crusader Scheme"), were adopted in Bermuda and became effective in August 2011. As part of the Crusader Plan and the Crusader Scheme, the Redeemer Committee was elected from among the Crusader Funds' investors to oversee the Debtor's management of the Crusader Funds.

Between October 2011 and January 2013, in accordance with the Crusader Plan and the Crusader Scheme, the Debtor distributed in excess of \$1.2 billion to the Crusader Funds' investors. The Debtor distributed a further \$315.3 million through June 2016.

However, disputes subsequently arose between the Redeemer Committee and the Debtor. On July 5, 2016, the Redeemer Committee (a) terminated and replaced the Debtor as investment manager of the Crusader Fund, (b) commenced an arbitration against the Debtor (the

“Arbitration”), and (c) commenced litigation in Delaware Chancery Court, to, among other things, obtain a status quo order in aid of the arbitration, which order was subsequently entered.

Following an evidentiary hearing, the Panel issued (a) a *Partial Final Award*, dated March 6, 2019 (the “March Award”), (b) a *Disposition of Application for Modification of Award*, dated March 14, 2019 (the “Modification Award”), and (c) a *Final Award*, dated May 9, 2019 (the “Final Award” and together with the March Award and the Modification Award, the “Arbitration Award”). Pursuant to the Arbitration Award, the Redeemer Committee was awarded gross damages against the Debtor in the aggregate amount of \$136,808,302; as of the Petition Date, the total value of the Arbitration Award was \$190,824,557, inclusive of interest

Prior to the Petition Date, the Redeemer Committee moved in the Chancery Court to confirm the Arbitration Award. For its part, the Debtor moved to vacate parts of the Final Award contending that certain aspects were procedurally improper. The Redeemer Committee’s motion to confirm the Arbitration Award and the Debtor’s motion to vacate were fully briefed and were scheduled to be heard by the Chancery Court on the day the Debtor filed for bankruptcy

On the Petition Date, the Debtor believed that the aggregate value of its assets exceeded the amount of its liabilities; however, the Debtor filed the Chapter 11 Case because it did not have sufficient liquidity to immediately satisfy the Award or post a supersedeas bond necessary to pursue an appeal.

G. Additional Prepetition Litigation

In addition to the litigation with the Redeemer Committee described above, the Debtor, both directly and through certain subsidiaries, affiliates, and related entities, was party to substantial prepetition litigation. Although the Debtor disputes the allegations raised in this litigation and believes it has substantial defenses, this litigation has resulted in substantial Claims against the Debtor’s Estate, each of which has been classified as a General Unsecured Claim. To the extent that these litigation Claims cannot be resolved consensually, they will be litigated by the Claimant Trustee or Reorganized Debtor, as applicable. The Debtor’s major prepetition litigation is as follows:

- Redeemer Committee: The dispute with the Redeemer Committee is described in ARTICLE II.F above. As discussed in ARTICLE II.R, the Debtor and the Redeemer Committee have reached a settlement, which, if approved by the Bankruptcy Court, will resolve the Redeemer Committee’s claims against the Estate.
- Acis Capital Management, L.P., & Acis Capital Management GP, LLC: On January 30, 2018, Joshua Terry filed involuntary bankruptcy petitions against both Acis Capital Management, L.P. (“Acis LP”) and its general partner, Acis Capital Management GP, LLC (“Acis GP,” and collectively with Acis LP, “Acis”) in the Bankruptcy Court for the Northern District of Texas, Dallas Division, the Honorable Judge Jernigan presiding (the same judge presiding over the Chapter 11 Case), Case No. 18-30264-SGJ (the “Acis Case”). Mr. Terry had

been an employee of the Debtor and a limited partner of Acis LP. Mr. Terry was terminated in June 2016, and obtained a multi-million dollar arbitration award against Acis. Overruling various objections, the Bankruptcy Court entered the orders for relief for the Acis debtors in April 2018, and a chapter 11 trustee was appointed. The Debtor filed a proof of claim against Acis and an administrative claim. Acis disputes the Debtor's claim, and the Debtor has not received any distributions on its claim to date. On January 31, 2019, Acis's chapter 11 plan was confirmed, and Mr. Terry become the sole owner of reorganized Acis. Several appeals remain pending, including an appeal of the entry of the Acis orders for relief and the Acis confirmation order.

The Acis trustee commenced a lawsuit against the Debtor, among others, alleging fraudulent conveyance and other causes of action in relation to the Debtor's alleged prepetition effort to control and transfer away Acis's assets to avoid paying Mr. Terry's claim. After the confirmation of the Acis plan, reorganized Acis allegedly supplanted the Acis Trustee as plaintiff and filed an amended complaint against the Debtor and other defendants, which claims comprise Acis's pending proof of claim against the Debtor.

As discussed in ARTICLE II.R, the Debtor and Acis have reached a settlement, which, if approved by the Bankruptcy Court, will resolve Acis's claims against the Estate.

- UBS Securities LLC and UBS AG London Branch: UBS Securities LLC ("UBS Securities") filed a proof of claim in the amount of \$1,039,957,799.40 [Claim No. 190] (the "UBS Securities Claim"), and UBS AG, London Branch ("UBS London," and together with UBS Securities, "UBS") filed a substantively identical proof of claim in the amount of \$1,039,957,799.40 [Claim No. 191] (the "UBS London Claim" and together with the UBS Securities Claim, the "UBS Claim"). The UBS Claim was based on the amount of a judgment UBS received on a breach of contract claim against funds related to the Debtor that were unable to honor margin calls in 2008. Although the Debtor had no obligation under UBS's contracts with the funds, UBS alleges the Debtor is liable for the judgment because it (i) breached an alleged duty to ensure that the funds could pay UBS, (ii) caused or permitted \$233 million in alleged fraudulent transfers to be made by Highland Financial Partners, L.P. ("HFP") in March 2009, and (iii) is an alter ego of the funds. The Debtor believes there are meritorious defenses to most, if not all, of the UBS Claim for numerous reasons, including: (i) decisions by the New York Appellate Division that limited UBS's claims to the March 2009 transfers that it alleges were fraudulent; (ii) those decisions should also apply to any alter ego claim (which at this time has not been formally asserted against the Debtor); (iii) UBS settled claims relating to \$172 million of the \$233 million in alleged fraudulent transfers and the Debtor is covered by the release; and (iv) the March 2009 transfers were in any event part of a wholly legitimate transaction that did not target UBS and for which HFP received fair consideration. Those and several additional defenses are described in the *Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch* [D.I. 928].

- Patrick Daugherty: Patrick Daugherty has Filed a Proof of Claim for “at least \$37,483,876.62” [Claim Nos. 67; 77] (the “Daugherty Claim”). Mr. Daugherty is a former limited partner and employee of the Debtor. The Daugherty Claim has three components, and Mr. Daugherty asserts claims: (1) for indemnification for any taxes Mr. Daugherty is required to pay as a result of the IRS audit of the Debtor’s 2008-2009 tax return; (2) for defamation arising from a 2017 press release posted by the Debtor; and (3) arising from a pending Delaware lawsuit against the Debtor, which seeks to recover a judgment of \$2.6 million in respect of Highland Employee Retention Assets (“HERA”), plus interest, from assets Mr. Daugherty claims were fraudulently transferred to the Debtor. The Daugherty Claim also seeks (a) the value of Mr. Daugherty’s asserted interest in HERA, which he values at approximately \$26 million; and (b) indemnification for fees incurred in the Delaware action and in previous litigation in Texas State Court. The Debtor believes that the Daugherty Claim should be allowed in the amount of \$3,722,019; however, the Debtor believes, for various reasons, that the balance of the Daugherty Claim lacks merit. The Debtor’s defenses to the Daugherty Claim are described in the *Debtor’s (i) Objection to Claim No. 77 of Patrick Hagaman Daugherty and (ii) Complaint to Subordinate Claim of Patrick Hagaman Daugherty* [Docket No. 1008].

H. The Debtor’s Bankruptcy Proceeding

On October 16, 2019, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Delaware Bankruptcy Court”). On December 4, 2019, the Delaware Bankruptcy Court entered an order transferring venue of the Chapter 11 Case to the Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”).⁶ The Debtor continues to operate its business and manage its properties as debtor-in-possession under the jurisdiction of the Bankruptcy Court and in accordance with the applicable provisions of the Bankruptcy Code and orders of the Bankruptcy Court.

An immediate effect of commencement of the Chapter 11 Case was the imposition of the automatic stay under the Bankruptcy Code which, with limited exceptions, enjoins the commencement or continuation of all collection efforts, the enforcement of liens against property of the Debtor, and the continuation of litigation against the Debtor during the pendency of the Chapter 11 Case. The automatic stay will remain in effect, unless modified by the Bankruptcy Court, until the later of the Effective Date and the date indicated in any order providing for the implementation of such stay or injunction.

I. First Day Orders

On or about the Petition Date, the Debtor filed certain “first day” motions and applications with the Delaware Bankruptcy Court seeking certain immediate relief to aid in the efficient administration of this Chapter 11 Case and to facilitate the Debtor’s transition to debtor-

⁶ All docket reference numbers refer to the docket maintained by the Bankruptcy Court.

in-possession status. The Delaware Bankruptcy Court held a hearing on these first-day motions on October 18, 2019. Following the first day hearing, the Delaware Bankruptcy Court entered the following orders:

- Order (I) Authorizing the Debtor to (a) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations and (b) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief [D.I. 39];
- Interim Order (a) Authorizing the Debtor to Pay Certain Prepetition Claims of Critical Vendors and (b) Granting Related Relief [D.I. 40];
- Interim Order Authorizing (a) Continuance of Existing Cash Management System, (b) Continued Use of the Prime Account, (c) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (d) Granting Related Relief [D.I. 42];
- Order Appointing Kurtzman Carson Consultants LLC as Claims and Noticing Agent for the Debtor Pursuant to 28 U.S.C. § 156(c), 11 U.S.C. § 105(a), and Local Rule 2002-1(f) [D.I. 43]; and
- Interim Order Authorizing Debtor to File Under Seal Portions of the Creditor Matrix Containing Employee Address Information [D.I. 44].

The Delaware Bankruptcy Court subsequently entered the following order on a final basis:

- Final Order (a) Authorizing the Debtor to Pay Certain Prepetition Claims of Critical Vendors and (b) Granting Related Relief [D.I. 168].

Following the transfer of the Chapter 11 Case to the Bankruptcy Court, the Bankruptcy Court entered the following order on a final basis:

- Final Order Authorizing (a) Continuance of Existing Cash Management System, (b) Continued Use of the Prime Account and Maxim Prime Account, (c) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (d) Granting Related Relief [D.I. 379].

J. Additional Orders

On and after the Petition Date, the Debtor filed a number of motions and applications to retain professionals and to streamline the administration of the Chapter 11 Case. The Delaware Bankruptcy Court and the Bankruptcy Court entered the following orders granting the foregoing motions and applications:

- Order Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 Authorizing the Employment and Retention of Pachulski Stang Ziehl & Jones LLP as Counsel for

the Debtor and Debtor in Possession *Nunc Pro Tunc* to the Petition Date [D.I. 183];

- Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief [D.I. 143];
- Order Authorizing the Debtor to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor Effective *Nunc Pro Tunc* to the Petition Date [D.I. 74];
- Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals [D.I. 141];
- Order Pursuant to 11 U.S.C. § 105(a) and 363(b) Authorizing the Debtor to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, *Nunc Pro Tunc* as of the Petition Date [D.I. 342];
- Order Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code Authorizing the Employment of Mercer (US) Inc. as Compensation Consultant to the Debtor [D.I. 381];
- Order Authorizing and Approving Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward & Associates PLLC As Local Counsel [D.I. 435];
- Order (I) Establishing Bar Dates for Filing Claims and (II) Approving the Form and Manner of Notice Thereof [D.I. 488];
- Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel, *Nunc Pro Tunc* to the Petition Date [D.I. 513];
- Agreed Order: (a) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider *Nunc Pro Tunc* to the Petition Date; and (b) Granting Related Relief [D.I. 551];
- Order Authorizing and Approving Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel *Nunc Pro Tunc* to the Petition Date [D.I. 669]; and

- Agreed Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel *Nunc Pro Tunc* to the Petition Date [D.I. 763].

In addition, the Committee filed applications to retain professionals and the Bankruptcy Court entered the following orders granting such applications:

- Order Authorizing and Approving the Retention of Sidley Austin LLP as Counsel to the Official Committee of Unsecured Creditors *Nunc Pro Tunc* to October 29, 2019 [D.I. 334];
- Order Authorizing and Approving the Employment of FTI Consulting, Inc. as Financial Advisor to the Official Committee of Unsecured Creditors [D.I. 336]; and
- Order Authorizing the Retention and Employment of Young Conaway Stargatt & Taylor, LLP as Co-Counsel to the Official Committee of Unsecured Creditors, *Nunc Pro Tunc* to November 8, 2019 [D.I. 337].

K. United States Trustee

While the Chapter 11 Case was pending in the Delaware Bankruptcy Court, the U.S. Trustee for Region 3 appointed Jane Leamy as the attorney for the U.S. Trustee in connection with this Chapter 11 Case (the “Delaware U.S. Trustee”). Following the transfer of the Chapter 11 Case to the Bankruptcy Court, the Delaware U.S. Trustee no longer represented the U.S. Trustee, and the U.S. Trustee for Region 6 appointed Lisa Lambert as the attorney for the U.S. Trustee in connection with this Chapter 11 Case (the “Texas U.S. Trustee,” and together with the Delaware U.S. Trustee, the “U.S. Trustee”). The Debtor has worked cooperatively to address concerns and comments from the U.S. Trustee’s office during this Chapter 11 Case.

L. Appointment of Committee

On October 29, 2019, the Delaware U.S. Trustee appointed the Committee in this Chapter 11 Case [D.I. 65]. The members of the Committee are (a) Redeemer Committee of Highland Crusader Fund, (b) Meta-e Discovery, (c) UBS Securities LLC and UBS AG London Branch, and (d) Acis Capital Management, L.P. and Acis Capital Management GP, LLP. Meta-E Discovery is a vendor to the Debtor. The other members of the Committee are litigants in prepetition litigation with the Debtor as described in ARTICLE II.G. The counsel to the Committee is Sidley Austin LLP and the financial advisor to the Committee is FTI Consulting, Inc.

M. Meeting of Creditors

The meeting of creditors under section 341(a) of the Bankruptcy Code was initially scheduled for November 20, 2019, at 9:30 a.m. (prevailing Eastern Time) at the J. Caleb Boggs Federal Building, 844 N. King Street, Room 3209, Wilmington, Delaware 19801, and was rescheduled to December 3, 2019, at 10:30 a.m. (prevailing Eastern Time). At the meeting of creditors, the Delaware U.S. Trustee and creditors asked questions of a representative of the Debtor.

Following the transfer of the Chapter 11 Case to the Bankruptcy Court, the Texas U.S. Trustee scheduled an additional meeting of creditors under section 341(a) for January 9, 2020, at 11:00 a.m. (prevailing Central Time) at the Office of the U.S. Trustee, 1100 Commerce Street, Room 976, Dallas, Texas 75242, at the conclusion of that meeting, the Texas U.S. Trustee continued the meeting to January 22, 2020. The Texas U.S. Trustee and creditors asked questions of a representative of the Debtor at the January 9 and January 22, 2020 meetings.

N. Schedules, Statements of Financial Affairs, and Claims Bar Date

The Debtor filed its Schedules of Assets and Liabilities and Statements of Financial Affairs (the “Schedules”) on December 19, 2019 [D.I. 247-248]. A creditor whose Claim is set forth in the Schedules and not identified as contingent, unliquidated or disputed may have elected to file a proof of claim against the Debtor.

The Bankruptcy Court established (i) April 8, 2020 as the deadline for Creditors (other than governmental units) to file proofs of claim against the Debtor; (ii) April 13, 2020, as the deadline for any governmental unit (as such term is defined in section 101(27) of the Bankruptcy Code), (iii) April 23, 2020, and as the deadline for any investors in any fund managed by the Debtor to file proofs of claim against the Debtor; and (iv) May 26, 2020 as the deadline for the Debtor’s employees to file proofs of claim against the Debtor pursuant to and accordance with Court’s order entered on April 3, 2020 [D.I. 560].⁷ Consequently, the bar date for filing proofs of claims has passed and any claims filed after the applicable bar date will be considered late filed.

O. Settlement with the Committee

On January 9, 2020, the Bankruptcy Court entered the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [D.I. 339] (the “Settlement Order”).

Among other things, the Settlement Order approved a term sheet (the “Term Sheet”) agreed to by the Debtor and the Committee pursuant to which the Debtor agreed to abide by certain protocols governing the production of documents and certain protocols governing the operation of the Debtor’s business (the “Operating Protocols”). Under the Operating Protocols, the Debtor agreed to seek consent from the Committee prior to entering into certain “Transactions” (as defined in the Operating Protocols. The Operating Protocols were amended on February 21, 2020, with the consent of the Committee [D.I. 466].

Pursuant to the Term Sheet, the Debtor also granted the Committee standing to pursue certain estate claims and causes of action against Mr. Dondero, Mr. Okada, other insiders of the Debtor, and the Related Entities (as defined in the Operating Protocols) (collectively, the “Estate Claims”). To the extent permitted, the Estate Claims and the ability to pursue the Estate Claims are being transferred to either the Claimant Trust or Litigation Sub-Trust pursuant to the Plan.

⁷ During the course of its Chapter 11 Case, the Debtor entered into stipulations to extend the Bar Date for certain other claimants or potential claimants.

In connection with the Settlement Order, an independent board of directors was also appointed at Strand, the Debtor's general partner (the "Independent Board"). The members of the Independent Board are John S. Dubel, James P. Seery, Jr., and Russell Nelms. The Independent Board was tasked with managing the Debtor's operations during the Chapter 11 Case and facilitating a reorganization or orderly liquidation of the Debtor's Estate.

P. Appointment of James P. Seery, Jr., as Chief Executive Officer and Chief Restructuring Officer

Following their appointment in January 2020, the Independent Board determined that it would be more efficient for the Debtor to have a traditional corporate management structure, i.e. a fully engaged chief executive officer supervised by the Independent Board. The Independent Board ultimately determined that Mr. Seery – a member of the Independent Board – had the requisite experience and expertise to lead the Debtor. On June 23, 2020, the Debtor filed *Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020* [D.I. 774] (the "Seery Retention Motion") to retain Mr. Seery as chief executive officer, chief restructuring officer, and foreign representative.

The Bankruptcy Court entered an order approving the Seery Retention Motion on July 16, 2020 [D.I. 854]. Mr. Seery was retained as the Debtor's chief executive officer and the duties of Bradley Sharp of DSI as the Debtor's chief restructuring officer and foreign representative were transferred to Mr. Seery.

Q. Mediation

On August 3, 2020, the Bankruptcy Court entered the *Order Directing Mediation* [D.I. 912] pursuant to which the Bankruptcy Court ordered the Debtor, the Committee, UBS, Acis, the Redeemer Committee, and Mr. Dondero into mediation and appointed Sylvia Mayer and Allan Gropper as the mediators (the "Mediators"). The goal of the mediation is to resolve the outstanding Claims of UBS and Acis and to negotiate the terms of a plan of reorganization. The mediation began on August 27, 2020, and is still ongoing as of the date of this Disclosure Statement. This Disclosure Statement and the Plan will be amended to account for the outcome of the mediation to the extent necessary.

R. Postpetition Settlements

1. Settlement with Acis and the Terry Parties

With the assistance of the Mediators, on September 9, 2020, (i) the Debtor, (ii) Acis LP, (iii) Acis GP, and (iv) Joshua N. Terry, individually and for the benefit of his individual retirement accounts, and Jennifer G. Terry, individually and for the benefit of her individual retirement accounts and as trustee of the Terry Family 401-K Plan (together, the "Terry Parties") executed that certain Settlement Agreement and General Release. The Debtor intends to file a motion with the Bankruptcy Court seeking approval of the Settlement Agreement and General Release (the "Acis Settlement Motion"). If the Acis Settlement Motion is approved by the Bankruptcy Court, it will fully resolve Acis's and the Terry Parties' claims against the Estate and grant, with certain material exceptions, mutual releases to the Debtor, Acis, and the Terry Parties, among others.

The Settlement Agreement and General Release contain the following material terms, among others:

- The proof of claim filed by Acis [Claim No. 23] will be Allowed in the amount of \$23,000,000 as a General Unsecured Claim.
- On the Effective Date of the Plan (or any other plan of reorganization confirmed by the Bankruptcy Court), the Debtor will pay in cash to:
 - Mr. and Mrs. Terry in the amount of \$425,000 plus 10% simple interest (calculated on the basis of a 360-day year from and including June 30, 2016), in full and complete satisfaction of the proof of claim filed by the Terry Parties [Claim No. 156];
 - Acis LP in the amount of \$97,000, which amount represents the legal fees incurred by Acis LP with respect to the *NWCC, LLC v. Highland CLO Management, LLC, et al.*, Index No. 654195/2018 (N.Y. Sup. Ct. 2018), in full and complete satisfaction of the proof of claim filed by Acis LP [Claim No. 159]; and
 - Mr. Terry in the amount of \$355,000 in full and complete satisfaction of the legal fees assessed against Highland CLO Funding, Ltd., in *Highland CLO Funding v. Joshua Terry*, [No Case Number], pending in the Royal Court of the Island of Guernsey;

The Settlement Agreement also provides that within five days of the Bankruptcy Court's approval of the Settlement Agreement and the General Release, the Debtor will move to withdraw, with prejudice, the proofs of claim that the Debtor filed in the Acis bankruptcy cases and the motion filed by the Debtor in the Acis bankruptcy cases seeking an administrative claim for postpetition services provided to Acis.

The foregoing is a summary only, and all parties are encouraged to review the Acis Settlement Motion when filed for additional information on the Settlement Agreement and General Release.

2. Settlement with the Redeemer Committee

Although not yet executed, the Debtor, Eames, Ltd., the Redeemer Committee, and the Crusader Funds (collectively, the "Settling Parties") have agreed to the terms of a settlement (the "Redeemer Stipulation"). It is anticipated that the Redeemer Stipulation will also be executed, solely with respect to paragraphs 10 through 15 thereof, by Hockney, Ltd., Strand, Highland Special Opportunities Holding Company, Highland CDO Opportunity Master Fund, L.P., Highland Financial Partners, L.P., Highland Credit Strategies Master Fund, L.P., Highland Credit Opportunities CDO, L.P., House Hanover, LLC, and Alvarez & Marsal CRF Management, LLC (collectively, the "Additional Release Parties"). The Debtor intends to file a motion with the Bankruptcy Court seeking approval of the Redeemer Stipulation (the "Redeemer Settlement Motion"). If the Redeemer Settlement Motion is approved by the Bankruptcy Court, it will fully resolve the claims filed by the Redeemer Committee and the Crusader Funds.

The Redeemer Stipulation contains the following material terms, among others:

- The proof of claim filed by the Redeemer Committee [Claim No. 72] will be Allowed in the amount of \$136,696,610 as a General Unsecured Claim;
- The proof of claim filed by the Crusader Funds [Claim No. 81] will be Allowed in the amount of \$50,000 as a General Unsecured Claim;
- The Debtor and Eames, Ltd., each (a) consented to the cancellation of certain interests in the Crusader Funds held by them, and (b) agreed that they will not object to the cancellation of certain interests in the Crusader Funds held by the Charitable Donor Advised Fund;
- The Debtor and Eames each acknowledged that they will not receive any portion of certain reserved distributions, and the Debtor further acknowledged that it will not receive any payments from the Crusader Funds in respect of any deferred fees, distribution fees, or management fees;
- The Debtor and the Redeemer Committee agreed to a form of amendment to the shareholders' agreement for Cornerstone Healthcare Group and to a process to monetize Cornerstone Healthcare Group;
- Upon the effective date of the Redeemer Stipulation, the Settling Parties and the Additional Release Parties shall exchange releases as set forth in the Redeemer Stipulation; and
- All litigation between the Debtor, Eames, Ltd., and the Additional Highland Release Parties (as defined in the Redeemer Stipulation) on the one hand, and the Redeemer Committee and the Crusader Funds, on the other hand, will cease.

The foregoing is a summary only and subject in all respects to the execution of the Redeemer Stipulation. All parties are encouraged to review the Redeemer Settlement Motion when filed for additional information on the Redeemer Stipulation.

S. Certain Outstanding Material Claims

As discussed above, April 8, 2020, was the general bar date for filing proofs of claim. The Debtor has begun the process of resolving those Claims. Although each Claim represents a potential liability of the Estate, the Debtor believes that, in addition to UBS's Claim, the Claims filed by IFA, the HarbourVest Entities, and Hunter Mountain represent the largest unresolved Claims against the Estate.

- IFA Proof of Claim. IFA filed a proof of claim [Claim No. 93] seeking damages in the amount of \$241,002,696.73 arising from the purported joint control of the Debtor and NexBank, SSB, and the Debtor's management of various lenders to IFA. The Debtor believes that IFA's claim should be disallowed in its entirety. IFA's claim and the Debtor's defenses thereto are described in greater detail in

the *Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.* [Docket No. 868].

- HarbourVest Entities Proofs of Claim. The HarbourVest Entities are investors in Highland CLO Funding, Ltd. (“HCLOF”) and filed proofs of claim against the Debtor’s Estate [Claim No. 143, 147, 149, 150, 153, 154]. Because the Debtor believed that it had no liability to the HarbourVest Entities and that the HarbourVest Entities’ proofs of claim did not state a basis for liability, the Debtor objected to those proofs of claim on the *Debtor’s First Omnibus Objection to Certain (a) Duplicate Claims; (b) Overstated Claims; (c) Late-Filed Claims; (d) Satisfied Claims; (e) No-Liability Claims; and (f) Insufficient Documentation Claims* [Docket No. 906]. In response, the HarbourVest Entities filed the *HarbourVest Response to Debtor’s First Omnibus Objection to Certain (a) Duplicate Claims; (b) Overstated Claims; (c) Late-Filed Claims; (d) Satisfied Claims; (e) No-Liability Claims; and (f) Insufficient Documentation Claims* [Docket No. 1057] in which the HarbourVest Entities alleged that they are owed in excess of \$100 million for damages to the HarbourVest Entities’ investment in HCLOF. The Debtor disputes the allegations raised by the HarbourVest Entities and intends to contest the HarbourVest Entities’ proofs of claim. The Debtor believes that the HarbourVest Entities’ proofs of claim should be disallowed in their entirety.
- Hunter Mountain Proof of Claim. Hunter Mountain is one of the Debtor’s limited partners. Hunter Mountain filed a proof of claim [Claim No. 152] seeking a \$60,298,739 indemnification claim against the Debtor because of the Debtor’s alleged failures to make priority distributions to Hunter Mountain under the Debtor’s Partnership Agreement. The Debtor believes that it has meritorious defenses to Hunter Mountain’s claim. Hunter Mountain’s claim and the Debtor’s defenses to such claim are described in greater detail in the *Debtor’s (i) Objection to Claim No. 152 of Hunter Mountain Investment Trust and (ii) Complaint to Subordinate Claim of Hunter Mountain Investment Trust and for Declaratory Relief* [Docket No. 995]. The Debtor believes that Hunter Mountain’s proof of claim should either be disallowed in its entirety or subordinated in its entirety.

In addition to the foregoing, the UBS Claim (in the amount of \$1,039,957,799.40) and the Daugherty Claim (in the amount of at least \$37,483,876.62) remain outstanding.

T. Exclusive Periods for Filing a Plan and Soliciting Votes

Under the Bankruptcy Code, a debtor has the exclusive right to file and solicit acceptance of a plan or plans of reorganization for an initial period of 120 days from the date on which the debtor filed for voluntary relief. If a debtor files a plan within this exclusive period, then the debtor has the exclusive right for 180 days from the petition date to solicit acceptances to the plan. During these exclusive periods, no other party in interest may file a competing plan of reorganization; however, a court may extend these periods upon request of a party in interest and “for cause.”

The Debtor filed motions to extend the exclusive period, and the Bankruptcy Court entered the following orders granting such applications:

- Order Granting Debtor's Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016-1 Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan [D.I. 460];
- Agreed Order Extending Exclusive Periods by Thirty Days [D.I. 668]; and
- Order Granting Debtor's Third Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016-1 Further Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan [D.I. 820].

Pursuant to the foregoing orders, the Bankruptcy Court extended the exclusivity period through June 12, 2020, for the filing of a plan, which was subsequently extended through July 13, 2020, and again through August 12, 2020. The Bankruptcy Court also extended the exclusivity period for the solicitation of votes to accept such plan through August 11, 2020, which was subsequently extended through September 10, 2020, and again through October 13, 2020.

On August 13, 2020, the Debtor filed *Debtor's Fourth Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016-1 Further Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan* [Docket No. 949] pursuant to which the Debtor sought a further extension of the exclusivity period for the filing of a plan through September 11, 2020, and the exclusivity period for the solicitation of votes to accept such plan through November 12, 2020. The Debtor filed for a further extension of the exclusivity periods at the request of the Mediators. The Bankruptcy Court has not yet ruled on this motion.

U. Negotiations with Constituents

The Debtor has engaged with the Committee in negotiating the terms of the Plan, but such negotiations have not yet produced a Plan that the Committee supports.

The Debtor, Mr. Dondero, and certain of the creditors have been negotiating a consensual reorganization plan for the Debtor that contemplates the Debtor continuing its business largely in its current form. Those negotiations have yet to reach conclusion but are continuing, and the negotiations were as part of the previously discussed mediation. There is no certainty that those negotiations will reach a consensual resolution of the Debtor's bankruptcy case.

he Plan is the Debtor's plan of reorganization in the event that it is unable to reach a consensual settlement plan with Mr. Dondero and the creditors of the estate.

**ARTICLE III.
SUMMARY OF THE PLAN**

THIS ARTICLE III IS INTENDED ONLY TO PROVIDE A SUMMARY OF THE MATERIAL TERMS OF THE PLAN AND IS QUALIFIED BY REFERENCE TO THE ENTIRE DISCLOSURE STATEMENT AND THE PLAN AND SHOULD NOT BE RELIED ON FOR A COMPREHENSIVE DISCUSSION OF THE PLAN. TO THE EXTENT THERE ARE ANY INCONSISTENCIES OR CONFLICTS BETWEEN THIS ARTICLE III AND THE PLAN, THE TERMS AND CONDITIONS SET FORTH IN THE PLAN SHALL CONTROL AND GOVERN.

A. Administrative and Priority Tax Claims

1. Administrative Expense Claims

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

2. Professional Fee Claims

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

3. Priority Tax Claims

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, or (b) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

B. Classification and Treatment of Classified Claims and Equity Interests

1. Summary

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

Summary of Classification and Treatment of Classified Claims and Equity Interests

Class	Claim	Status	Voting Rights
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Unimpaired	Deemed to Accept
3	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
4	Retained Employee Claim	Unimpaired	Deemed to Accept
5	Convenience Claims	Impaired	Entitled to Vote
6	Unpaid Employee Claims	Impaired	Entitled to Vote
7	General Unsecured Claims	Impaired	Entitled to Vote
8	Subordinated Claims	Impaired	Entitled to Vote
9	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
10	Class A Limited Partnership Interests	Impaired	Entitled to Vote

2. Elimination of Vacant Classes

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

3. Impaired/Voting Classes

Claims and Equity Interests in Class 5 through Class 10 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

Please refer to “Distribution of Confirmation Hearing Notice and Solicitation Package to Holders of Claims and Equity Interests” and “Instructions and Procedures for Voting” in ARTICLE I.C.7 and ARTICLE I.C.8 for a discussion of how the how votes on the Plan will be solicited and tabulated.

4. Unimpaired/Non-Voting Classes

Claims in Class 1 through Class 4 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

5. Impaired/Non-Voting Classes

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

6. Cramdown

If any Class of Claims or Equity Interests is deemed to reject the Plan or does not vote to accept the Plan, the Debtor may (i) seek confirmation of the Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify the Plan in accordance with the terms of the Plan and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

C. **Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until full and final payment of such Allowed Class 1 Claim is made as provided herein.
- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject the Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 2 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 2 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Except with respect to Claims that are treated in accordance with the preceding clause (C), each Holder of an Allowed Class 2 Claim will retain the Liens securing its

Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.

- *Impairment and Voting:* Class 2 is Unimpaired, and the Holders of Class 2 Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 2 Claims are not entitled to vote to accept or reject the Plan and will not be solicited.

3. Class 3 – Priority Non-Tax Claims

- *Classification:* Class 3 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 3 Claim Cash equal to the amount of such Allowed Class 3 Claim.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject the Plan and will not be solicited.

4. Class 4 – Retained Employee Claims

- *Classification:* Class 4 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 4 Claim will be Reinstated.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject the Plan and will not be solicited.

5. Class 5 – Convenience Claims

- *Classification:* Class 5 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 5 Claim is Allowed on the Effective Date or (ii) the date on which such Class 5 Claim

becomes an Allowed Class 5 Claim, each Holder of an Allowed Class 5 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 5 Claim (1) the treatment provided to Allowed Holders of Class 7 General Unsecured Claims if the Holder of such Class 5 Claim makes the GUC Election or (2) an amount in Cash equal to either (a) 75% of the Allowed amount of such Holder's Class 5 Claim or (b) if the total amount of Allowed Class 5 Claims exceeds \$15,000,000, such Holder's Pro Rata share of the Convenience Claims Cash Pool.

- *Impairment and Voting:* Class 5 is Impaired, and the Holders of Class 5 Claims are entitled to vote to accept or reject the Plan.

“*Convenience Claim*” means any prepetition unsecured Claim against the Debtor other than an Unpaid Employee Claim that is less than or equal to \$2,500,000 or any General Unsecured Claim that is voluntarily reduced to an Allowed amount less than or equal to \$2,500,000.

“*Convenience Claim Pool*” means the \$15,000,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. If the total amount of Allowed Convenience Claims is less than \$15,000,000, any Cash remaining in the Convenience Claim Pool after all distributions to Allowed Holders of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

By making the GUC Election on their Ballots, each Holder of a Convenience Claim can elect to be treated as a Class 7 General Unsecured Claim for all purposes, including voting.

6. *Class 6 – Unpaid Employee Claims*

- *Classification:* Class 6 consists of the Unpaid Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 6 Claim (1) the treatment provided to Allowed Holders of Class 7 General Unsecured Claims if the Holder of such Class 6 Claim makes the GUC Election or (2) an amount in Cash equal to either (a) 75% of the Allowed amount of such Holder's Class 6 Claim or (b) if the total amount of Allowed Class 6 Claims exceeds \$3,000,000, such Holder's Pro Rata share of the Unpaid Employee Claims Cash Pool.

- *Impairment and Voting:* Class 6 is Impaired, and the Holders of Class 6 Claims are entitled to vote to accept or reject the Plan.

“*Unpaid Employee Claim*” means any Claim filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Hunter Covitz, Jean Paul Sevilla, or Isaac Leventon; *provided, however*, that if any such Claim or portion of such Claim is entitled to priority pursuant to section 507(a) of the Bankruptcy Code, such Claim or portion of such Claim will be a Priority Non-Tax Claim.

“*Unpaid Employee Claim Pool*” means the \$3,000,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Unpaid Employee Claims under the Plan as set forth herein. If the total amount of Allowed Unpaid Employee Claims is less than \$3,000,000, any Cash remaining in the Unpaid Employee Claim Pool after all distributions to Allowed Holders of Unpaid Employee Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

By making the GUC Election on their Ballots, each Holder of a Unpaid Employee Claim can elect to be treated as a Class 7 General Unsecured Claim for all purposes, including voting.

7. *Class 7 – General Unsecured Claims*

- *Classification:* Class 7 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 7 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of the Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject the Plan.

“*General Unsecured Claim*” means (1) any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense

Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; (e) Convenience Claim; (f) Unpaid Employee Claim; or (g) Subordinated Claim and (2) any Convenience Claim or Unpaid Employee Claim that makes the GUC Election. For the avoidance of doubt, any Unpaid Employee Claim that is not a Unpaid Employee Claim will be a General Unsecured Claim.

8. Class 8 – Subordinated Claims

- *Classification:* Class 8 consists of the Subordinated Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Subordinated Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of the Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject the Plan.

“*Subordinated Claim*” means any other Claim that is subordinated to the Convenience Claims, Unpaid Employee Claims, and General Unsecured Claims pursuant to 11 U.S.C. § 510 or Final Order of the Bankruptcy Court.

9. Class 9 – Class B/C Limited Partnership Interests

- *Classification:* Class 9 consists of the Class B/C Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 9 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of the Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject the Plan.

10. Class 10 – Class A Limited Partnership Interests

- *Classification:* Class 10 consists of the Class A Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of the Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject the Plan.

D. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

E. Subordinated Claims

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Under section 510 of the Bankruptcy Code, upon written notice, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to re-classify, or

to seek to subordinate, any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

F. Means for Implementation of the Plan

1. Summary

The Plan will be implemented through (i) the Claimant Trust and (ii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited partner, will ratify New GP LLC’s appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor’s limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor’s current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to the Plan and the Claimant Trust Agreement. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in the Plan and the Claimant Trust Agreement.

2. The Claimant Trust

(a) *Creation and Governance of the Claimant Trust and Litigation Sub-Trust.*

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and, if applicable, the Litigation Sub-Trust in accordance with the Plan and the beneficial interests therein, which shall be for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the

Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims if the Litigation Sub-Trust is established, for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trust shall also be responsible for resolving all Disputed or disallowed Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in Article IV of the Plan, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets in accordance with the provisions of the Plan and the Claimant Trust Agreement. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

If applicable, on or after the Effective Date, the Claimant Trustee and Litigation Trustee may enter into a separate agreement that shall delineate the powers, rights, and responsibilities of the Litigation Trustee and administration and governance of the Litigation Sub-Trust in a manner consistent with the Claimant Trust Agreement.

The Claimant Trustee will be James P. Seery, Jr., the Debtor's chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement.

(b) *Claimant Trust Oversight Committee*

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be

replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The members of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

(c) *Purpose of the Claimant Trust.*

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement, and (v) administering the Disputed Claims Reserve and serving as Distribution Agent.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in the Plan, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length below and in Article IV.C of the Plan.

(d) *Claimant Trustee and Claimant Trust Agreement.*

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;

- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Disputed or disallowed Claims and the allowance, prosecution, and resolution of objections to Claims and Equity Interests, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expenses and shall periodically replenish such reserve, as necessary.

The Trustees, on behalf of the Claimant Trust, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests, without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that if a Litigation Sub-Trust is created upon or after the Effective Date, the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. In all circumstances, the Trustees shall act in the best interests of the Claimant Trust Beneficiaries and with the same fiduciary duties as a chapter 7 trustee.

(e) *Compensation and Duties of Trustees.*

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

(f) *Cooperation of Debtor and Reorganized Debtor.*

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets on behalf of the Claimant Trust, the Claimant Trustee, Litigation Trustee, and each of their counsel may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Claimant Trustee and Litigation Trustee shall have reasonable access to copies of the Debtor's and Reorganized Debtor's records and information relating to the Claimant Trust Assets, including electronic records, documents or work product related to the Claims and/or Causes of Action that constitute Claimant Trust Assets.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and/or Causes of Action that constitute Claimant Trust Assets until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust.

(g) *United States Federal Income Tax Treatment of the Claimant Trust.*

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claim Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

(h) *Tax Reporting.*

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claim Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

(i) *Claimant Trust Assets.*

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in the Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

(j) *Claimant Trust Expenses.*

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust and any professionals retained by the Claimant Trust from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

(k) *Trust Distributions to Claimant Trust Beneficiaries.*

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

(l) *Cash Investments.*

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are

investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

(m) *Dissolution of the Claimant Trust.*

The Trustees and the Claimant Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of additional Causes of Action is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (b) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (c) all objections to Disputed Claims and Equity Interests are fully resolved, (d) the Reorganized Debtor is dissolved, and (e) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

3. The Reorganized Debtor

(a) *Corporate Existence*

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

(b) *Cancellation of Equity Interests and Release*

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor’s formation documents, including the Limited Partnership Agreement.

(c) *Issuance of New Partnership Interests*

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

(d) *Management of the Reorganized Debtor*

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Debtor. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

(e) *Vesting of Assets in the Reorganized Debtor*

Except as otherwise provided in the Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under the Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

Except as may be otherwise provided in the Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support

services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

(f) *Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets*

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement, the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in Article IV.B.1 of the Plan, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

4. Company Action

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to the Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in the Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with the Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the

transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in the Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

5. Release of Liens, Claims and Equity Interests

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, Article IV.C.2 of the Plan.

6. Cancellation of Notes, Certificates and Instruments

Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, Article IV.C.2 of the Plan.

7. Cancellation of Existing Instruments Governing Security Interests

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements,

instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

8. Control Provisions

To the extent that there is any inconsistency between the Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, the Plan shall control.

9. Treatment of Vacant Classes

Any Claim or Equity Interest in a Class considered vacant under Article III.C of the Plan shall receive no Plan Distributions.

10. Plan Documents

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in Article I of the Plan) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

A. Treatment of Executory Contracts and Unexpired Leases

1. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to a Final Order of the Bankruptcy Court entered prior to the Effective Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan Supplement, on the Effective Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Effective Date, the Debtor or the Reorganized Debtor, as applicable, may assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

2. Claims Based on Rejection of Executory Contracts or Unexpired Leases

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Effective Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Effective Date. Any Rejection Claims that are not timely Filed pursuant to the Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as Convenience Claims or General Unsecured Claims, as applicable, and shall be treated in accordance with Article III of the Plan.

3. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the

Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with the Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to Article V.C of the Plan shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to Article V.C of the Plan, shall be deemed disallowed and expunged as of the Effective Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

4. Assumption of Insurance Policies

Upon the Effective Date, the Reorganized Debtor will assume all of the Insurance Policies pursuant to section 365(a) of the Bankruptcy Code and all such Insurance Policies shall vest in the Reorganized Debtor. Unless previously effectuated by separate order entered by the Bankruptcy Court, entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the Debtor's foregoing assumption of each of the Insurance Policies and all such Insurance Policies shall continue in full force and effect thereafter in accordance with their respective terms. Notwithstanding anything to the contrary contained in the Plan, confirmation of the Plan will not impair or otherwise modify any rights of the Debtor or the Reorganized Debtor under the Insurance Policies. To the extent that any Insurance Policy is not assumable, it will be Reinstated.

B. Provisions Governing Distributions

1. Dates of Distributions

Except as otherwise provided in the Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that the Plan

provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under the Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in the Plan. Except as otherwise provided in the Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to the Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in the Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under the Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under the Plan to such Persons or the date of such distributions.

2. Distribution Agent

Except as provided herein, all distributions under the Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions of the Plan.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

3. Cash Distributions

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

4. Disputed Claims Reserve

As set forth in the Claimant Trust Agreement, the Claimant Trustee, as Distribution Agent, shall establish, fund, and maintain a reserve at the Claimant Trust. Any payments to be made under the Plan after the Effective Date shall be paid from the Disputed Claims Reserve as set forth in the Claimant Trust Agreement. Upon the resolution of all Disputed Claims, funds remaining in the Disputed Claims Reserve shall be allocated in the manner set forth in the Claimant Trust Agreement.

5. Rounding of Payments

Whenever the Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under the Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as “Unclaimed Property” under the Plan.

6. *De Minimis* Distribution

Except as to any Allowed Claim that is Unimpaired under the Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in Article VI.I of the Plan within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

7. Distributions on Account of Allowed Claims

Except as otherwise agreed by the Holder of a particular Claim or as provided in the Plan, all distributions shall be made pursuant to the terms of the Plan and the Confirmation Order. Except as otherwise provided in the Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

8. General Distribution Procedures

The Distribution Agent, shall make all distributions of Cash or other property required under the Plan, unless the Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under the Plan shall not be subject to any claim by any Person.

9. Address for Delivery of Distributions

Distributions to Holders of Allowed Claims, to the extent provided for under the Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

10. Undeliverable Distributions and Unclaimed Property

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under the Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

11. Withholding Taxes

In connection with the Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to the Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under the Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to the Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld

pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan.

12. Setoffs

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to the Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with the Plan; *provided, however*, that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

13. Surrender of Cancelled Instruments or Securities

As a condition precedent to receiving any distribution pursuant to the Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to Article IV of the Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

14. Lost, Stolen, Mutilated or Destroyed Securities

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by the Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with Article VI.N of the Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under the Plan, be deemed to have surrendered such security or note to the Distribution Agent.

C. Procedures for Resolving Contingent, Unliquidated and Disputed Claims

1. Filing of Proofs of Claim

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

2. Disputed Claims

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest or any other appropriate motion or adversary proceeding with respect thereto, which shall be litigated to Final Order or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of the Plan.

3. Procedures Regarding Disputed Claims or Disputed Equity Interests

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest, even if a portion of the Claim is not disputed, unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

4. Allowance of Claims and Equity Interests

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

Allowance of Claims

After the Effective Date and subject to the other provisions of the Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

Estimation

Subject to the other provisions of the Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to

applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.

D. Effectiveness of the Plan

1. Conditions Precedent to the Effective Date

The Effective Date of the Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of Article VIII.B of the Plan of the following:

- the Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to the Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have been entered, not subject to stay pending appeal, and shall be in form and substance reasonably acceptable to the Debtor and the

Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate the Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in the Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under the Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and the Plan are nonseverable and mutually dependent; (iii) the implementation of the Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under the Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under the Plan upon the Effective Date.

- All documents and agreements necessary to implement the Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.
- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement the Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.

2. Waiver of Conditions

The conditions to effectiveness of the Plan set forth in Article VIII of the Plan (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action

other than proceeding to confirm or effectuate the Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

3. Effect of Non-Occurrence of Conditions to Effectiveness

Unless waived as set forth in Article VIII.B of the Plan, if the Effective Date of the Plan does not occur within twenty calendar days of entry of the Confirmation Order, the Debtor may withdraw the Plan and, if withdrawn, the Plan shall be of no further force or effect.

4. Dissolution of the Committee

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

E. Exculpation, Injunction, and Related Provisions

1. General

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

For purposes of the following provisions:

- “*Exculpated Parties*” means, collectively, (i) the Debtor, (ii) the Independent Directors, (iii) the Committee, (iv) the members of the Committee (in their official capacities), (v) the Professionals retained by the Debtor in the Chapter 11 Case, (vi) Strand (solely from the date of appointment of the Independent Directors), (vii) the CEO/CRO; and (viii) the Related Persons of each of the parties listed in (i) through (vii); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Exculpated Party.”

- “*Released Parties*” means, collectively, (i) the Reorganized Debtor, (ii) the Claimant Trust, (iii) the Litigation Trust, (iv) the Independent Directors, (v) Strand (solely from the date of appointment of the Independent Directors), (vi) the Committee, (vii) the officers, directors, employees, and agents of the Debtor and Strand in each case (a) as are employed as of the Effective Date or (b) as are employed as of the date hereof and subsequently transferred by the Debtor or terminated by the Debtor without cause prior to the Effective Date, (viii) the CEO/CRO, and (ix) the Related Persons of each of the parties listed in (i) through (vi); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Released Party.”
- “*Protected Parties*” means, collectively, (i) the Debtor, (ii) Strand (solely from the date of the appointment of the Independent Directors), (iii) the Reorganized Debtor, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Claimant Trust, (viii) the Claimant Trustee, (ix) the Litigation Trustee, (x) the members of the Claimant Trust Oversight Committee (in their official capacities), (xi) New GP LLC, (xii) the Professionals retained by the Debtor in the Chapter 11 Case, (xiii) the CEO/CRO, and (xiv) the Related Persons of each of the parties listed in (i) through (xii); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Protected Party.”

2. Discharge of Claims

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or the Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

3. Exculpation

To the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the

Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v); *provided, however*, the foregoing will not apply to any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of the Plan, including Article IV.C.2 of the Plan, protecting such Exculpated Parties from liability.

4. Releases by the Debtor

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, or (iv) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

5. Preservation of Rights of Action

Maintenance of Causes of Action

Except as otherwise provided in the Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

Preservation of All Causes of Action Not Expressly Settled or Released

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order, except where such Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

6. Injunction

Upon entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective Related Persons, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether proof of such Claims or Equity Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective Related Persons, are permanently enjoined, on and after the Effective Date, with respect to such Claims and Equity Interests, from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (iv) asserting any right of setoff, directly or indirectly, against any obligation due from the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or against property or

interests in property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust; and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

The injunctions set forth herein shall extend to any successors of the Debtor, the Reorganized Debtor, and the Claimant Trust and their respective property and interests in property.

No Entity may commence or pursue a claim or cause of action of any kind against any Protected Party that arose from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice, that such claim or cause of action represents a colorable claim of bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Entity to bring such claim against any such Plan Party. As set forth in Article XI of the Plan, the Bankruptcy Court will have sole jurisdiction to adjudicate any such claim for which approval of the Bankruptcy Court to commence or pursue has been granted.

7. Term of Injunctions or Stays

Unless otherwise provided in the Plan, the Confirmation Order, or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

F. Binding Nature of Plan

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in Article IX of the Plan, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to the Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a)

G. Statutory Requirements for Confirmation of the Plan

At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan satisfies the requirements of section 1129 of the Bankruptcy Code. The Debtor believes that: (i) the Plan satisfies or will satisfy all of the statutory requirements of chapter 11 of the Bankruptcy Code; (ii) the Debtor has complied or will have complied with all of the requirements of chapter 11 of the Bankruptcy Code; and (iii) the Plan has been proposed in good faith. Specifically, the

Debtor believes that the Plan satisfies or will satisfy the applicable confirmation requirements of section 1129 of the Bankruptcy Code set forth below.

- The Plan complies with the applicable provisions of the Bankruptcy Code;
- The Debtor has complied and will comply with the applicable provisions of the Bankruptcy Code;
- The Plan has been proposed in good faith and not by any means forbidden by law;
- Any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, the Debtor's bankruptcy case, or in connection with the Plan and incident to the case, has been or will be disclosed to the Bankruptcy Court, and any such payment: (i) made before the confirmation of the Plan is reasonable; or (ii) is subject to the approval of the Bankruptcy Court as reasonable if it is to be fixed after confirmation of the Plan;
- Each Class of Claims or Equity Interests that is entitled to vote on the Plan will have accepted the Plan, or the Plan can be confirmed without the approval of such voting Class pursuant to section 1129(b) of the Bankruptcy Code;
- Except to the extent that the Holder of a particular Claim will agree to a different treatment of its Claim, the Plan provides that Administrative Expense Claims and Priority Claims will be paid in full in Cash on the Effective Date, or as soon thereafter as is reasonably practicable;
- Confirmation of the Plan will not likely be followed by the liquidation or the need for further financial reorganization of the Debtor or any successor thereto under the Plan;
- The Debtor has paid or will pay all fees payable under section 1930 of title 28, and the Plan provides for the payment of all such fees on the Effective Date; and
- The Plan provides for the continuation after the Effective Date of payment of all retiree benefits, if applicable.

1. Best Interests of Creditors Test

Often called the "best interests" test, section 1129(a)(7) of the Bankruptcy Code requires that the bankruptcy court find, as a condition to confirmation of a chapter 11 plan, that each holder of a claim or equity interest in each impaired class: (i) has accepted the plan; or (ii) among other things, will receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the amount that such Person would receive if the debtor

were liquidated under chapter 7 of the Bankruptcy Code. To make these findings, the Bankruptcy Court must: (a) estimate the net Cash proceeds (the “Liquidation Proceeds”) that a chapter 7 trustee would generate if the Debtor’s Chapter 11 Case were converted to a chapter 7 case on the Effective Date and the assets of such Debtor’s Estate were liquidated; (b) determine the distribution (the “Liquidation Distribution”) that each non-accepting Holder of a Claim or Equity Interest would receive from the Liquidation Proceeds under the priority scheme dictated in chapter 7; and (c) compare each Holder’s Liquidation Distribution to the distribution under the Plan that such Holder would receive if the Plan were confirmed and consummated.

2. Liquidation Analysis

Any liquidation analysis, including the estimation of Liquidation Proceeds and Liquidation Distributions, with respect to the Debtor (the “Liquidation Analysis”) is subject to numerous assumptions and there can be no guarantee that the Liquidation Analysis will be accurate. No order or finding has been entered by the Bankruptcy Court estimating or otherwise fixing the amount of Claims and Equity Interests at the projected amounts of Allowed Claims and Equity Interests set forth in the Liquidation Analysis. In preparing the Liquidation Analysis, the Debtor has projected an amount of Allowed Claims and Equity Interests that represents its best estimate of the chapter 7 liquidation dividend to Holders of Allowed Claims and Equity Interests. The estimate of the amount of Allowed Claims and Equity Interests set forth in the Liquidation Analysis should not be relied on for any other purpose, including, without limitation, any determination of the value of any Plan Distribution to be made on account of Allowed Claims and Equity Interests under the Plan and Disclosure Statement.

The full Liquidation Analysis is attached hereto as Exhibit C.

Furthermore, any chapter 7 trustee appointed in a chapter 7 liquidation would have to confront all of the issues described in this Disclosure Statement, including the prepetition litigation claims. This process would be significantly time-consuming and costly, and reduce any recoveries available to the Debtor’s Estate. The Debtor believes that liquidation under chapter 7 would result in (i) smaller distributions being made to creditors than those provided for in the Plan because of the additional administrative expenses involved in the appointment of a trustee and attorneys and other professionals to assist such trustee, (ii) additional expenses and claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of executory contracts in connection with the cessation of the Debtor’s operations, and (iii) the failure to realize greater value from all of the Debtor’s assets.

Therefore, the Debtor believes that confirmation of the Plan will provide each Holder of a Claim with a greater recovery than such Holder would receive pursuant to the liquidation of the Debtor under chapter 7 of the Bankruptcy Code.

3. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that the bankruptcy court find that confirmation is not likely to be followed by the liquidation, or the need for further financial reorganization of the Debtor, or any successor to the Debtor, unless the plan contemplates such liquidation or reorganization. For purposes of demonstrating that the Plan meets this

“feasibility” standard, the Debtor has analyzed the ability of the Claimant Trust and the Reorganized Debtor to meet their obligations under the Plan and to retain sufficient liquidity and capital resources to conduct their business. A copy of the financial projections prepared by the Debtor is attached hereto as **Exhibit D**.

The Debtor believes that the Plan meets the feasibility requirement set forth in section 1129(a)(11) of the Bankruptcy Code. In connection with the development of the Plan and for the purposes of determining whether the Plan satisfies this feasibility standard, the Debtor analyzed their ability to satisfy their financial obligations while maintaining sufficient liquidity and capital resources. The Debtor believes that its available Cash and any additional proceeds from the Debtor’s Assets will be sufficient to allow the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, to make all payments required to be made under the Plan. Accordingly, the Debtor believes that the Plan is feasible.

4. Valuation

In order to provide information and full disclosure to parties in interest regarding the Debtor’s assets, the Debtor estimates that its value and the value of its Assets, as of June 30, 2020, total approximately \$351.7 million.

5. Acceptance by Impaired Classes

The Bankruptcy Code requires, as a condition to confirmation, that, except as described in the following section, each class of claims or equity interests that is impaired under a plan, accepts the plan. A class that is not “impaired” under a plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. A class is “impaired” unless the plan: (i) leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder of such claim or interest; or (ii) notwithstanding any contractual provision or applicable law that entitles the holder of such claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default— (a) cures any such default that occurred before or after the commencement of the Chapter 11 Case, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) expressly does not require to be cured; (b) reinstates the maturity of such claim or interest as such maturity existed before such default; (c) compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; (d) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and (e) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interest.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the plan and are not insiders. Section 1126(d) of the Bankruptcy Code

defines acceptance of a plan by a class of equity interests as acceptance by holders of at least two-thirds in amount of the allowed interests of such class. Thus, a class of claims will have voted to accept the plan only if two-thirds in amount and a majority in number actually voting cast their ballots in favor of acceptance. Section 1126(d) of the Bankruptcy Code, except as otherwise provided in section 1126(e) of the Bankruptcy Code, defines acceptance of a plan by a class of impaired equity interests as acceptance by holders of at least two-thirds in amount of equity interests in that class actually voting to accept or to reject the plan.

Pursuant to section 1129 of the Bankruptcy Code, the Holders of Claims or Equity Interests in any voting class must accept the Plan for the Plan to be confirmed without application of the “fair and equitable test” to such Class, and without considering whether the Plan “discriminates unfairly” with respect to such Class, as both standards are described herein.

6. Confirmation Without Acceptance by Impaired Classes

Section 1129(b) of the Bankruptcy Code allows a bankruptcy court to confirm a plan even if less than all impaired classes entitled to vote on the plan have accepted it, *provided* that the plan has been accepted by at least one impaired class of claims. Pursuant to section 1129(b) of the Bankruptcy Code, notwithstanding an impaired Class’s rejection or deemed rejection of the Plan, the Plan will be confirmed, at the Debtor’s request, in a procedure commonly known as “cram down,” so long as the Plan does not “discriminate unfairly” and is “fair and equitable” with respect to each Class of Claims or Equity Interests that is impaired under, and has not accepted, the Plan.

7. No Unfair Discrimination

This test applies to classes of claims or equity interests that are of equal priority and are receiving different treatment under the Plan. The test does not require that the treatment be the same or equivalent, but that such treatment be “fair.” In general, bankruptcy courts consider whether a plan discriminates unfairly in its treatment of classes of claims of equal rank (e.g., classes of the same legal character). Bankruptcy courts will take into account a number of factors in determining whether a plan discriminates unfairly and, accordingly, a plan could treat two classes of unsecured creditors differently without unfairly discriminating against either class.

8. Fair and Equitable Test

This test applies to classes of different priority and status (e.g., secured versus unsecured) and includes the general requirement that no class of claims receive more than 100% of the amount of the allowed claims in such class. As to the dissenting class, the test sets different standards depending on the type of claims or equity interests in such class:

The condition that a plan be “fair and equitable” to a non-accepting Class of Secured Claims includes the requirements that: (a) the Holders of such Secured Claims retain the liens securing such Claims to the extent of the Allowed amount of the Claims, whether the property subject to the liens is retained by the debtor or transferred to another entity under the Plan; and (b) each Holder of a Secured Claim in the Class receives deferred Cash payments totaling at least the Allowed amount of such Claim with a present value, as of the Effective Date of the Plan, at

least equivalent to the value of the secured claimant's interest in the debtor's property subject to the liens.

The condition that a plan be "fair and equitable" with respect to a non-accepting Class of unsecured Claims includes the requirement that either: (a) the plan provides that each Holder of a Claim of such Class receive or retain on account of such Claim property of a value, as of the Effective Date of the plan, equal to the allowed amount of such Claim; or (b) the Holder of any Claim or Equity Interest that is junior to the Claims of such Class will not receive or retain under the plan on account of such junior Claim or Equity Interest any property.

The condition that a plan be "fair and equitable" to a non-accepting Class of Equity Interests includes the requirements that either: (a) the plan provides that each Holder of an Equity Interest in that Class receives or retains under the plan, on account of that Equity Interest, property of a value, as of the Effective Date of the plan, equal to the greater of (i) the allowed amount of any fixed liquidation preference to which such Holder is entitled, (ii) any fixed redemption price to which such Holder is entitled, or (iii) the value of such interest; or (b) if the Class does not receive such an amount as required under (a), no Class of Equity Interests junior to the non-accepting Class may receive a distribution under the plan.

To the extent that any class of Claims or Class of Equity Interests rejects the Plan, the Debtor reserves the right to seek (a) confirmation of the Plan under section 1129(b) of the Bankruptcy Code and/or (b) modify the Plan in accordance with Article XIII.C of the Plan.

The Debtor believes that the Plan and the treatment of all Classes of Claims and Equity Interests under the Plan satisfy the foregoing requirements for non-consensual confirmation of the Plan.

ARTICLE IV. RISK FACTORS

ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD READ AND CONSIDER CAREFULLY THE RISK FACTORS SET FORTH HEREIN, AS WELL AS ALL OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT. THESE FACTORS SHOULD NOT BE REGARDED AS CONSTITUTING THE ONLY RISKS PRESENT IN CONNECTION WITH THE DEBTOR'S BUSINESS OR THE PLAN AND ITS IMPLEMENTATION.

H. Certain Bankruptcy Law and Other Considerations

1. Parties in Interest May Object to the Debtor's Classification of Claims and Equity Interests, or Designation as Unimpaired.

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtor believes that the classification of Claims and Equity Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtor created Classes of Claims and Equity Interests, each

encompassing Claims or Equity Interests, as applicable, that are substantially similar to the other Claims and Equity Interests in each such Class. Nevertheless, there can be no assurance that the Holders of Claims or Equity Interests or the Bankruptcy Court will reach the same conclusion.

There is also a risk that the Holders of Claims or Equity Interests could object to the Debtor's designation of Claims or Equity Interests as Unimpaired, and the Bankruptcy Court could reach the same conclusion.

2. The Debtor May Not Be Able to Secure Confirmation of the Plan.

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a chapter 11 plan and requires, among other things, findings by the bankruptcy court that: (i) such plan "does not unfairly discriminate" and is "fair and equitable" with respect to any non-accepting classes; (ii) confirmation of such plan is not likely to be followed by a liquidation or a need for further financial reorganization unless such liquidation or reorganization is contemplated by the plan; and (c) the value of distributions to Holders of Claims within a particular class under such plan will not be less than the value of distributions such holders would receive if the debtor was liquidated under chapter 7 of the Bankruptcy Code.

There can be no assurance that the Bankruptcy Court will confirm the Plan. The Bankruptcy Court could decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met.

If the Plan is not confirmed by the Bankruptcy Court, there can be no assurance that any alternative plan of reorganization or liquidation would be on terms as favorable to Holders of Claims as the terms of the Plan. In addition, there can be no assurance that the Debtor will be able to successfully develop, prosecute, confirm and consummate an alternative plan that is acceptable to the Bankruptcy Court and the Debtor's creditors.

3. The Conditions Precedent to the Effective Date of the Plan May Not Occur.

As more fully set forth in Article IX of the Plan, the Effective Date of the Plan is subject to a number of conditions precedent. If such conditions precedent are not waived or not met, the Effective Date will not take place.

4. Continued Risk Following Effectiveness.

Even if the Effective Date of the Plan occurs, the Debtor, the Reorganized Debtor, and Claimant Trust will continue to face a number of risks, including certain risks that are beyond its control, such as changes in assets, asset values, and increasing expenses. Some of these concerns and effects typically become more acute when a case under the Bankruptcy Code continues for a protracted period without indication of how or when the case may be completed. As a result of these risks and others, there is no guarantee that a chapter 11 plan of liquidation reflecting the Plan will achieve the Debtor's stated goals.

In addition, at the outset of the Chapter 11 Case, the Bankruptcy Code provides the Debtor with the exclusive right to propose the Plan and prohibits creditors and others from proposing a plan. The Debtor will have retained the exclusive right to propose the Plan upon

filing its petition. If the Bankruptcy Court terminates that right, however, or the exclusivity period expires, there could be a material adverse effect on the Debtor's ability to achieve confirmation of the Plan in order to achieve the Debtor's stated goals.

5. The Effective Date May Not Occur.

Although the Debtor believes that the Effective Date may occur quickly after the Confirmation Date, there can be no assurance as to such timing or as to whether the Effective Date will, in fact, occur.

6. The Chapter 11 Case May Be Converted to Cases Under Chapter 7 of the Bankruptcy Code

If the Bankruptcy Court finds that it would be in the best interest of creditors and/or the debtor in a chapter 11 case, the Bankruptcy Court may convert a chapter 11 bankruptcy case to a case under chapter 7 of the Bankruptcy Code. In such event, a chapter 7 trustee would be appointed or elected to liquidate the debtor's assets for distribution in accordance with the priorities established by the Bankruptcy Code. The Debtor believes that liquidation under chapter 7 would result in significantly smaller distributions being made to creditors than those provided for in the Plan because of (a) the likelihood that the assets would have to be sold or otherwise disposed of in a disorderly fashion over a short period of time, rather than selling the assets in an orderly and controlled manner, (b) additional administrative expenses involved in the appointment of a chapter 7 trustee, and (c) additional expenses and Claims, some of which would be entitled to priority, that would be generated during the liquidation.

7. Claims Estimation

There can be no assurance that the estimated Claim amounts set forth herein are correct, and the actual amount of Allowed Claims may differ from the estimates. The estimated amounts are subject to certain risks, uncertainties, and assumptions. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, the actual amount of Allowed Claims may vary from those estimated herein.

8. The Financial Information Contained Herein is Based on the Debtor's Books and Records and, Unless Otherwise Stated, No Audit was Performed.

The financial information contained in this Disclosure Statement has not been audited. In preparing this Disclosure Statement, the Debtor relied on financial data derived from their books and records that was available at the time of such preparation. Although the Debtor has used its reasonable business judgment to ensure the accuracy of the financial information provided in this Disclosure Statement and, while the Debtor believes that such financial information fairly reflects its financial condition, the Debtor is unable to warrant or represent that the financial information contained herein and attached hereto is without inaccuracies.

I. Disclosure Statement Disclaimer

1. The Information Contained Herein is for Disclosure Purposes Only.

The information contained in this Disclosure Statement is for purposes of disclosure in connection with the Plan and may not be relied upon for any other purposes.

2. This Disclosure Statement was Not Approved by the SEC.

Neither the SEC nor any state regulatory authority has passed upon the accuracy or adequacy of this Disclosure Statement, or the exhibits or the statements contained herein, and any representation to the contrary is unlawful.

3. This Disclosure Statement Contains Forward-Looking Statements.

This Disclosure Statement contains “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward looking terminology such as “may,” “expect,” “anticipate,” “estimate” or “continue” or the negative thereof or other variations thereon or comparable terminology. The reader is cautioned that all forward-looking statements are necessarily speculative and there are certain risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward-looking statements.

4. No Legal or Tax Advice is Provided to You by This Disclosure Statement.

This Disclosure Statement is not legal or tax advice to you. The contents of this Disclosure Statement should not be construed as legal, business or tax advice, and are not personal to any person or entity. Each Holder of a Claim or an Equity Interest should consult his or her own legal counsel and accountant with regard to any legal, tax and other matters concerning his or her Claim or Equity Interest. This Disclosure Statement may not be relied upon for any purpose other than as a disclosure of certain information to determine how to vote on the Plan or object to confirmation of the Plan.

5. No Admissions Are Made by This Disclosure Statement.

The information and statements contained in this Disclosure Statement will neither (i) constitute an admission of any fact or liability by any Entity (including, without limitation, the Debtor) nor (ii) be deemed evidence of the tax or other legal effects of the Plan on the Debtor, the Reorganized Debtor, the Claimant Trust, Holders of Allowed Claims or Equity Interests, or any other parties in interest.

6. No Reliance Should Be Placed on Any Failure to Identify Litigation Claims or Projected Objections.

No reliance should be placed on the fact that a particular litigation claim or projected objection to a particular Claim or Equity Interest is, or is not, identified in this Disclosure Statement. The Debtor or the Reorganized Debtor or Claimant Trustee, as applicable, may seek

to investigate, file and prosecute litigation rights and claims against any third parties and may object to Claims after the Confirmation Date or Effective Date of the Plan irrespective of whether the Disclosure Statement identifies such litigation claims or objections to Claims or Equity Interests.

7. Nothing Herein Constitutes a Waiver of Any Right to Object to Claims or Equity Interests or Recover Transfers and Assets.

The Debtor, the Reorganized Debtor, the Claimant Trustee, or any party in interest, as the case may be, reserve any and all rights to object to that Holder's Allowed Claim regardless of whether any Claims or Causes of Action of the Debtor or its Estate are specifically or generally identified herein.

8. The Information Used Herein was Provided by the Debtor and was Relied Upon by the Debtor's Advisors.

Counsel to and other advisors retained by the Debtor have relied upon information provided by the Debtor in connection with the preparation of this Disclosure Statement. Although counsel to and other advisors retained by the Debtor have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not verified independently the information contained herein.

9. The Disclosure Statement May Contain Inaccuracies.

The statements contained in this Disclosure Statement are made by the Debtor as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has not been a change in the information set forth herein since that date. While the Debtor has used its reasonable business judgment to ensure the accuracy of all of the information provided in this Disclosure Statement and in the Plan, the Debtor nonetheless cannot, and does not, confirm the current accuracy of all statements appearing in this Disclosure Statement. Further, the information contained in this Disclosure Statement is as of the date of the Disclosure Statement and does not address events that may occur after such date. The Debtor may update this Disclosure Statement but is not required to do so.

10. No Representations Made Outside the Disclosure Statement Are Authorized.

No representations concerning or relating to the Debtor, the Chapter 11 Case, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. You should promptly report unauthorized representations or inducements to the counsel to the Debtor and the U.S. Trustee.

J. Investment Risk Disclaimer

1. Investment Risks in General.

The Reorganized Debtor is and will remain a registered investment adviser under the Investment Advisers Act of 1940, and the Reorganized Debtor will continue advising the Managed Funds. No guarantee or representation is made that the Reorganized Debtor's or the

Managed Funds' investment strategy will be successful, and investment results may vary substantially over time.

2. General Economic and Market Conditions and Issuer Risk.

Any investment in securities carries certain market risks. Investments by the Reorganized Debtor, the Managed Funds, or the Claimant Trust may decline in value for any number of reasons over which none of the Managed Funds, the Reorganized Debtor, the Claimant Trust, or the Claimant Trustee may have control, including changes in the overall market and other general economic and market conditions, such as interest rates, availability of credit, inflation rates, economic uncertainty, changes in laws, currency exchange rates and controls and national, international political circumstances (including wars and security operations), and acts of God (including pandemics). The value of the Managed Funds or the assets held by the Reorganized Debtor or Claimant Trust may also decline as a result of factors pertaining to particular securities held by the Managed Funds, Reorganized Debtor, or Claimant Trust, as applicable, such as perception or changes in the issuer's management, the market for the issuer's products or services, sources of supply, technological changes within the issuer's industry, the availability of additional capital and labor, general economic conditions, political conditions, acts of God, and other similar conditions. All of these factors may affect the level and volatility of security prices and the liquidity and the value of the securities held by the Managed Fund, Reorganized Debtor, or Claimant Trust. Unexpected volatility or illiquidity could impair the Managed Funds', Reorganized Debtor's, or Claimant Trust's profitability or result in it suffering losses.

ARTICLE II.

ALTERNATIVES TO CONFIRMATION AND EFFECTIVENESS OF THE PLAN

If no chapter 11 plan can be confirmed, the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code in which case, a trustee would be elected or appointed to liquidate the Debtor's assets. If the Plan is not confirmed by the Bankruptcy Court, there can be no assurance that any alternative plan of reorganization or liquidation would be on terms as favorable to Holders of Claims as the terms of the Plan. In addition, there can be no assurance that the Debtor will be able to successfully develop, prosecute, confirm and consummate an alternative plan that is acceptable to the Bankruptcy Court and the Debtor's creditors.

ARTICLE V.

U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

Implementation of the Plan will have federal, state, local or foreign tax consequences to the Debtor and Holders of Equity Interests as well as Holders of Claims. No tax opinion or ruling has been sought or will be obtained with respect to any tax consequences of the Plan, and the following discussion does not constitute and is not intended to constitute either a tax opinion or tax advice to any person.

The following discussion summarizes certain U.S. federal income tax consequences of the Plan to the Debtor and to Holders of Claims. This discussion assumes that each Holder of Claims is for United States federal income tax purposes:

- An individual who is a citizen or resident of the United States for federal income tax purposes;
- a corporation (or other entity treated as a corporation for United States federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- any other person that is subject to U.S. federal income taxation on a net income basis.
- an estate the income of which is subject to United States federal income tax without regard to its source; or
- a trust (1) that is subject to the primary supervision of a United States court and the control of one or more United States persons or (2) that has a valid election in effect under applicable treasury regulations to be treated as a United States person.

This discussion also assumes that each Holder holds the Claims as capital assets under Section 1221 of the Internal Revenue Code.

The summary provides general information only and does not purport to address all of the federal income tax consequences that may be applicable to the Debtor or to any particular Holder of Claims in light of such Holder's own individual circumstances. In particular, the summary does not address the federal income tax consequences of the Plan to Holders of Claims that may be subject to special rules, such as non-U.S. persons, insurance companies, financial institutions, regulated investment companies, broker-dealers, persons who acquired Claims as part of a straddle, hedge, conversion transaction or other integrated transaction, or persons who acquired Claims in connection with the performance of services; persons who hold Claims through a partnership or other pass-through entity and tax-exempt organizations. The summary does not address foreign, state, local, estate or gift tax consequences of the Plan, nor does it address the federal income tax consequences to Holders of Equity Interests.

This summary is based on the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), the final, temporary and proposed Treasury regulations promulgated thereunder, judicial decisions and administrative rulings and pronouncements of the Internal Revenue Service ("IRS"), all as in effect on the date hereof and all of which are subject to change (possibly with retroactive effect) by legislation, judicial decision or administrative action. Moreover, due to a lack of definitive authority, substantial uncertainties exist with respect to various tax consequences of the Plan.

THE TAX CONSEQUENCES TO THE HOLDERS OF CLAIMS OR EQUITY INTERESTS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. MOREOVER, THE TAX CONSEQUENCES OF CERTAIN ASPECTS OF THE PLAN ARE UNCERTAIN DUE TO THE LACK OF APPLICABLE LEGAL PRECEDENT AND THE POSSIBILITY OF CHANGES IN THE APPLICABLE TAX LAW. THERE CAN BE NO ASSURANCE THAT THE IRS WILL NOT CHALLENGE

ANY OF THE TAX CONSEQUENCES DESCRIBED HEREIN, OR THAT SUCH A CHALLENGE, IF ASSERTED, WOULD NOT BE SUSTAINED. ACCORDINGLY, EACH HOLDER OF A CLAIM OR EQUITY INTEREST SHOULD CONSULT WITH ITS OWN TAX ADVISOR REGARDING THE FOREIGN, FEDERAL, STATE AND LOCAL TAX CONSEQUENCES OF THE PLAN.

A. Consequences to the Debtor

It is anticipated that the consummation of the Plan will not result in any federal income tax liability to the Debtor. The Debtor is a partnership for federal income tax purposes. Therefore, the income and loss of the Debtor is passed-through to the Holders of its Equity Interests, and the Debtor does not pay federal income tax.

1. Cancellation of Debt

Generally, the discharge of a debt obligation of a debtor for an amount less than the adjusted issue price (in most cases, the amount the debtor received on incurring the obligation, with certain adjustments) creates cancellation of indebtedness (“COD”) income that must be included in the debtor’s income. Due to the nature of the Impaired Claims, it is anticipated that the Debtor will not recognize any material amount of COD income. If any such COD income is recognized, it will be passed-through to the Holders of its Equity Interests, and the Holders of such Equity Interest generally will be required to include such amounts in income, unless a Holder is entitled to exclude such amounts from income under Section 108 of the Internal Revenue Code, based on the Holder’s individual circumstances.

2. Transfer of Assets

Pursuant to the Plan, the Debtor’s assets (including the Claimant Trust Assets and Reorganized Debtor Assets) will be transferred directly or indirectly to the Claimant Trust. For federal income tax purposes, any such assets transferred to the Claimant Trust will be deemed to have been transferred to the Claimant Trust Beneficiaries followed by the transfer by such Holders to the Claimant Trust of such assets in exchange for the respective Holders’ beneficial interests in the Claimant Trust. The Claimant Trust thereafter will be treated as a grantor trust for federal income tax purposes. See U.S. Federal Income Tax Treatment of the Claimant Trust, below.

The Debtor’s transfer of its assets pursuant to the Plan will constitute a taxable disposition of such assets. As discussed above, the Debtor is a partnership for federal income tax purposes. Any gain or loss recognized as a result of the taxable disposition of such assets will be passed through to the Holders of Equity Interests in the Debtor. The Debtor will not be required to pay any tax as a result of such disposition.

B. U.S. Federal Income Tax Treatment of the Claimant Trust

It is intended that the Claimant Trust will be treated as a “grantor trust” for U.S. federal income tax purposes. In general, a grantor trust is not a separate taxable entity. The IRS, in Revenue Procedure 94-45, 1994-2 C.B. 684, set forth the general criteria for obtaining an advanced ruling as to the grantor trust status of a liquidating trust under a chapter 11 plan.

Consistent with the requirements of Revenue Procedure 94-45, the Claimant Trust Agreement requires all relevant parties to treat, for U.S. federal income tax purposes, the transfer of the Debtor's assets to the Claimant Trust as (i) a transfer of such assets to the Claimant Trust Beneficiaries (to the extent of the value of their respective interests in the applicable Claimant Trust Assets) followed by (ii) a transfer of such assets by such beneficiaries to the Claimant Trust (to the extent of the value of their respective interests in the applicable Claimant Trust Assets), with the beneficiaries being treated as the grantors and owners of the Claimant Trust.

The Plan and the Claimant Trust Agreement generally provide that the Claimant Trust Beneficiaries must value the assets of the Claimant Trust consistently with the values determined by the Claimant Trustee for all U.S. federal income tax purposes. As soon as possible after the Effective Date, the Claimant Trustee, based upon his good faith determination after consultation with his counsel and other advisors, shall inform the beneficiaries in writing as to his estimate of the value of the assets transferred to the Claimant Trust and the value of such assets allocable to each Class of beneficiaries.

Consistent with the treatment of the Claimant Trust as a grantor trust, the Claimant Trust Agreement will require each beneficiary to report on its U.S. federal income tax return its allocable share of the Claimant Trust's income, gain, loss or deduction that reflects the beneficiary's interest in the interim and final distributions to be made by the Claimant Trust. Furthermore, certain of the assets of the Claimant Trust will be interests in the Reorganized Debtor, which will be a partnership for U.S. federal income tax purposes. The income, gain, loss or deduction of the Reorganized Debtor will also flow through the Claimant Trust to the beneficiaries of the Claimant Trust. Therefore, a beneficiary may incur a federal income tax liability with respect to its allocable share of the income of the Claimant Trust (including the income of the Reorganized Debtor) whether or not the Claimant Trust has made any distributions to such beneficiary. The character of items of income, gain, deduction, and credit to any beneficiary and the ability of such beneficiary to benefit from any deduction or losses will depend on the particular situation of such beneficiary. The interests of the beneficiaries may shift from time to time as the result of the allowance or disallowance of claims that have not been allowed at the Effective Date, which could give rise to tax consequences both to the Holders of claims that have, and have not been, allowed at the Effective Date. The Claimant Trustee will file with the IRS tax returns for the Claimant Trust as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a) and will also send to each beneficiary a separate statement setting forth such beneficiary's share of items of Trust income, gain, loss, deduction, or credit. Each beneficiary will be required to report such items on its U.S. federal income tax return. Holders are urged to consult their tax advisors regarding the appropriate federal income tax treatment of distributions from the Claimant Trust.

The discussion above assumes that the Claimant Trust will be respected as a grantor trust for U.S. federal income tax purposes. If the IRS were to challenge successfully such classification, the U.S. federal income tax consequences to the Claimant Trust and the beneficiaries could differ materially from those discussed herein (including the potential for an entity level tax to be imposed on all income of the Claimant Trust).

C. Consequences to Holders of Allowed Claims

1. Recognized Gain or Loss

In general, each Holder of an Allowed Claim will recognize gain or loss in an amount equal to the difference between (i) the “amount realized” by such Holder in satisfaction of its Claim (other than any Claim for accrued but unpaid interest) and (ii) such holder’s adjusted tax basis in such Claim (other than any Claim for accrued but unpaid interest). In general, the “amount realized” by a Holder will equal the sum of any cash and the aggregate fair market value of any property received by such Holder pursuant to the Plan (for example, such Holder’s undivided beneficial interest in the assets of the Claimant Trust). A Holder that receives or is deemed to receive for U.S. federal income tax purposes a non-cash asset under the Plan in respect of its Claim should generally have a tax basis in such asset in an amount equal to the fair market value of such asset on the date of its receipt or deemed receipt. See U.S. Federal Income Tax Treatment of the Claimant Trust, above for more information regarding the tax treatment of the Claimant Trust Interests.

Where gain or loss is recognized by a Holder, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the Holder, whether the claim constitutes a capital asset in the hands of the Holder and how long it has been held, whether the claim was acquired at a market discount, and whether and to what extent the Holder had previously claimed a bad debt deduction.

A Holder who, under the Plan, receives in respect of an Allowed Claim an amount less than the Holder's tax basis in the Allowed Claim may be entitled to a deduction for U.S. federal income tax purposes. The rules governing the character, timing and amount of such a deduction place considerable emphasis on the facts and circumstances of the Holder, the obligor and the instrument with respect to which a deduction is claimed. Holders of Allowed Claims, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

2. Distribution in Discharge of Accrued Unpaid Interest

Pursuant to the Plan, a distribution received in respect of Allowed Claims will be allocated first to the principal amount of such Claims, with any excess allocated to unpaid accrued interest. However, there is no assurance that the IRS would respect such allocation for federal income tax purposes. In general, to the extent that an amount received (whether cash or other property) by a Holder of a claim is received in satisfaction of interest that accrued during its holding period, such amount will be taxable to the Holder as interest income if not previously included in the Holder’s gross income. Conversely, a Holder generally recognizes a deductible loss to the extent that it does not receive payment of interest that has previously been included in its income. Holders of Claims are urged to consult their tax advisors regarding the allocation of consideration and the deductibility of unpaid interest for tax purposes.

3. Information Reporting and Withholding

All distributions to Holders of Allowed Claims under the Plan are subject to any applicable withholding tax requirements. Under federal income tax law, interest, dividends, and

other reportable payments, may, under certain circumstances, be subject to “backup withholding” (currently at a rate of up to 24%). Backup withholding generally applies if the Holder (a) fails to furnish its social security number or other taxpayer identification number (“TIN”), (b) furnishes an incorrect TIN, (c) fails properly to report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

D. Treatment of the Disputed Claims Reserve

Pursuant to the Plan, the Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claim Reserve as a separate taxable entity. Such taxes will be paid out of the Disputed Claims Reserve and therefore may reduce amounts paid to Holders of Allowed Claims from the Claimant Trust. If the Claimant Trustee does not make such an election to treat the Disputed Claim Reserve as a separate taxable entity, the net income, if any, earned in the Disputed Claims Reserve will be taxable to the Holders of Allowed Claims in accordance with the principles discussed above under the heading “U.S. Federal Income Tax Treatment of the Claimant Trust”, possibly in advance of any distributions to the Holders.

AS INDICATED ABOVE, THE FOREGOING IS INTENDED TO BE A SUMMARY ONLY AND NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. ACCORDINGLY, EACH HOLDER OF A CLAIM OR EQUITY INTEREST IS STRONGLY URGED TO CONSULT WITH HIS OWN TAX ADVISOR REGARDING THE TAX CONSEQUENCES OF THE PLAN.

ARTICLE VI. RECOMMENDATION

In the opinion of the Debtor, the Plan is preferable to the alternatives described in this Disclosure Statement because it provides for the highest distribution to the Debtor’s creditors and interest holders. In addition, any alternative other than confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to Holders of Allowed Claims and Equity Interests than that which is proposed under the Plan. Accordingly, the Debtor recommends that all Holders of Claims and Equity Interests support confirmation of the Plan.

Dated: September 21, 2020

Respectfully submitted,

HIGHLAND CAPITAL MANAGEMENT, L.P.



James P. Seery, Jr.
Chief Executive Officer and Chief Restructuring
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000577

EXHIBIT A

PLAN OF REORGANIZATION

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

In re:)

) Chapter 11

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹)

) Case No. 19-34054-sgj11

Debtor.)

**FIRST AMENDED PLAN OF REORGANIZATION OF HIGHLAND
CAPITAL MANAGEMENT, L.P.**

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¹ 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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DEBTOR’S CHAPTER 11 PLAN OF REORGANIZATION

HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

ARTICLE I.
RULES OF INTERPRETATION, COMPUTATION OF TIME,
GOVERNING LAW AND DEFINED TERMS

A. Rules of Interpretation, Computation of Time and Governing Law

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns;

(h) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

B. Defined Terms

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, on [REDACTED] at 5:00 p.m. (prevailing Central Time).

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” means an “affiliate” as defined in section 101(2) of the Bankruptcy Code and also includes any other Entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such affiliate. For the purposes of this definition, the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a

Claim Allowed pursuant to the Plan or a Final Order of the Bankruptcy Court; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed by a Final Order.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) all Assets of the Estate other than the Reorganized Debtor Assets, including, but not limited to, the Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets received from the Reorganized Debtor on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent applicable, post-petition interest at the federal judgment rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims, and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however*, Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment

Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition unsecured Claim against the Debtor other than an Unpaid Employee Claim that is less than or equal to \$2,500,000 or any General Unsecured Claim that is voluntarily reduced to an Allowed amount less than or equal to \$2,500,000.

42. “*Convenience Claim Pool*” means the \$15,000,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. If the total amount of Allowed Convenience Claims is less than \$15,000,000, any Cash remaining in the Convenience Claim Pool after all distributions to Allowed Holders of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, including, to the extent applicable, all accrued and unpaid post-petition interest at the federal judgment rate.

As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

44. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

45. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

46. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

47. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

48. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

49. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

50. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

51. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

52. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

53. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

54. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

55. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

56. “*Exculpated Parties*” means, collectively, (i) the Debtor, (ii) the Independent Directors, (iii) the Committee, (iv) the members of the Committee (in their official capacities), (v) the Professionals retained by the Debtor in the Chapter 11 Case, (vi) Strand (solely from the

date of appointment of the Independent Directors), (vii) the CEO/CRO; and (viii) the Related Persons of each of the parties listed in (i) through (vii); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Exculpated Party.”

57. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

58. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

59. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

60. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

61. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

62. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

63. “*General Unsecured Claim*” means (1) any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; (e) Convenience Claim; (f) Unpaid Employee Claim; or (g) Subordinated Claim and (2) any Convenience Claim or Unpaid Employee Claim that makes the GUC Election.

64. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

65. “*GUC Election*” means the option provided to each Holder of a Convenience Claim or Unpaid Employee Claim on their Ballot to elect to be treated as a General Unsecured Claim for all purposes under this Plan, including for purposes of voting on this Plan.

66. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

67. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

68. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020.

69. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

70. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

71. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

72. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

73. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

74. “*Litigation Sub-Trust*” means a sub-trust that may be established within the Claimant Trust or a wholly –owned subsidiary of the Claimant Trust in each case in accordance with the terms and conditions set forth in the Claimant Trust Agreement. The Litigation Sub-Trust, if created, shall hold the Claimant Trust Assets that are Causes of Action.

75. “*Litigation Trustee*” means the trustee appointed by the Committee who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Claimant Trust Agreement. For avoidance of doubt, the Claimant Trustee may also serve as the Litigation Trustee.

76. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

77. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

78. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

79. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

80. “*Outside Closing Date*” means [REDACTED] at 12:00 noon (prevailing Central time).

81. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

82. “*Petition Date*” means October 16, 2019.

83. “*Plan*” means this *Debtor’s First Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices, and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

84. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

85. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

86. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the schedule of Causes of Action; and (vii) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

87. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code other than a Priority Tax Claim or an Administrative Claim.

88. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

89. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

90. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

91. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

92. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

93. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

94. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

95. “*Protected Parties*” means, collectively, (i) the Debtor, (ii) Strand (solely from the date of the appointment of the Independent Directors), (iii) the Reorganized Debtor, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Claimant Trust, (viii) the Claimant Trustee, (ix) the Litigation Trustee, (x) the members of the Claimant Trust Oversight Committee (in their official capacities), (xi) New GP LLC, (xii) the Professionals retained by the Debtor in the Chapter 11 Case, (xiii) the CEO/CRO; and (xiv) the Related Persons of each of the parties listed in (i) through (xii); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Protected Party.”

96. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity

Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

97. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

98. “*Related Entity*” means, without duplication, (a) James Dondero, (b) Mark Okada, (c) Grant Scott, (d) Hunter Covitz, (e) any entity or person that was an insider of the Debtor on the Petition Date under Section 101(31) of the Bankruptcy Code, including any non-statutory insider, (f) any entity that, after the Effective Date, is controlled directly or indirectly by James Dondero, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, and (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries.

99. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present and former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, employees, subsidiaries, divisions, management companies, and other representatives, in each case solely in their capacity as such .

100. “*Released Parties*” means, collectively, (i) the Reorganized Debtor, (ii) the Claimant Trust, (iii) the Litigation Trust, (iv) the Independent Directors, (v) Strand (solely from the date of appointment of the Independent Directors), (vi) the Committee, (vii) the officers, directors, employees, and agents of the Debtor and Strand in each case (a) as are employed as of the Effective Date or (b) as are employed as of the date hereof and subsequently transferred by the Debtor or terminated by the Debtor without cause prior to the Effective Date, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (i) through (vi); *provided, however*, that neither James Dondero nor Mark Okada is included in the term “Released Party.”

101. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

102. “*Reorganized Debtor Assets*” means, without limitation, any limited and general partnership interests held by the Debtor, and any other Assets, including Causes of

Action (including, without limitation, claims for breach of fiduciary duty), that have not been, or cannot be, for any reason, transferred to the Claimant Trust.

103. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

104. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

105. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

106. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

107. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

108. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

109. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

110. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

111. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

112. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

113. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

114. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims, Unpaid Employee Claims, and General Unsecured Claims pursuant to 11 U.S.C. § 510 or Final Order of the Bankruptcy Court.

115. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

116. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

117. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

118. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

119. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

120. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

121. “*Unpaid Employee Claim*” means any Claim filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Hunter Covitz, Jean Paul Sevilla, or Isaac Leventon; *provided, however*, that if any such Claim or portion of such Claim is entitled to priority pursuant to section 507(a) of the Bankruptcy Code, such Claim or portion of such Claim will be a Priority Non-Tax Claim.

122. “*Unpaid Employee Claim Pool*” means the \$3,000,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Unpaid Employee Claims under the Plan as set forth herein. If the total amount of Allowed Unpaid Employee Claims is less than \$3,000,000, any Cash remaining in the Unpaid Employee Claim Pool after all distributions to Allowed Holders of Unpaid Employee Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

123. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

124. “*Voting Record Date*” means [REDACTED].

ARTICLE II.
ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS

A. Administrative Expense Claims

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

B. Professional Fee Claims

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim

will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

C. Priority Tax Claims

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, or (b) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.
CLASSIFICATION AND TREATMENT OF
CLASSIFIED CLAIMS AND EQUITY INTERESTS**

A. Summary

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

B. Summary of Classification and Treatment of Classified Claims and Equity Interests

Class	Claim	Status	Voting Rights
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Unimpaired	Deemed to Accept
3	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
4	Retained Employee Claim	Unimpaired	Deemed to Accept
5	Convenience Claims	Impaired	Entitled to Vote
6	Unpaid Employee Claims	Impaired	Entitled to Vote
7	General Unsecured Claims	Impaired	Entitled to Vote
8	Subordinated Claims	Impaired	Entitled to Vote
9	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
10	Class A Limited Partnership Interests	Impaired	Entitled to Vote

C. Elimination of Vacant Classes

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

D. Impaired/Voting Classes

Claims and Equity Interests in Class 5 through Class 10 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

E. Unimpaired/Non-Voting Classes

Claims in Class 1 through Class 4 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

F. Impaired/Non-Voting Classes

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

G. Cramdown

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any

class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

H. Classification and Treatment of Claims and Equity Interests

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until full and final payment of such Allowed Class 1 Claim is made as provided herein.
- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 2 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 2 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Except with respect to Claims that are treated in accordance with the preceding clause (C), each Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Unimpaired, and the Holders of Class 2 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the

Holders of Class 2 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

3. Class 3 – Priority Non-Tax Claims

- *Classification:* Class 3 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 3 Claim Cash equal to the amount of such Allowed Class 3 Claim.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Retained Employee Claims

- *Classification:* Class 4 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 4 Claim will be Reinstated.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Convenience Claims

- *Classification:* Class 5 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 5 Claim is Allowed on the Effective Date or (ii) the date on which such Class 5 Claim becomes an Allowed Class 5 Claim, each Holder of an Allowed Class 5 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 5 Claim (1) the treatment provided to Allowed Holders of Class 7 General Unsecured Claims if the Holder of such Class 5 Claim makes the GUC Election or (2) an amount in Cash equal to either (a) 75% of the Allowed amount of such Holder's Class 5

Claim or (b) if the total amount of Allowed Class 5 Claims exceeds \$15,000,000, such Holder's Pro Rata share of the Convenience Claims Cash Pool.

- *Impairment and Voting:* Class 5 is Impaired, and the Holders of Class 5 Claims are entitled to vote to accept or reject this Plan.

6. *Class 6 – Unpaid Employee Claims*

- *Classification:* Class 6 consists of the Unpaid Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 6 Claim (1) the treatment provided to Allowed Holders of Class 7 General Unsecured Claims if the Holder of such Class 6 Claim makes the GUC Election or (2) an amount in Cash equal to either (a) 75% of the Allowed amount of such Holder's Class 6 Claim or (b) if the total amount of Allowed Class 6 Claims exceeds \$3,000,000, such Holder's Pro Rata share of the Unpaid Employee Claims Cash Pool.
- *Impairment and Voting:* Class 6 is Impaired, and the Holders of Class 6 Claims are entitled to vote to accept or reject this Plan.

7. *Class 7 – General Unsecured Claims*

- *Classification:* Class 7 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 7 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. *Class 8 – Subordinated Claims*

- *Classification:* Class 8 consists of the Subordinated Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Subordinated Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. *Class 9 – Class B/C Limited Partnership Interests*

- *Classification:* Class 9 consists of the Class B/C Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 9 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class A Limited Partnership Interests

- *Classification:* Class 10 consists of the Class A Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

I. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

J. Subordinated Claims

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Under section 510 of the Bankruptcy Code, upon written notice, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to re-classify, or to seek to subordinate, any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

ARTICLE IV.
MEANS FOR IMPLEMENTATION OF THIS PLAN

A. Summary

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust and (ii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited partner, will ratify New GP LLC’s appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor’s limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor’s current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

B. The Claimant Trust

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and, if applicable, the Litigation Sub-Trust in accordance with the Plan and the beneficial interests therein, which shall be for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant

Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims if the Litigation Sub-Trust is established, for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trust shall also be responsible for resolving all Disputed or disallowed Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets in accordance with the provisions of the Plan and the Claimant Trust Agreement. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

If applicable, on or after the Effective Date, the Claimant Trustee and Litigation Trustee may enter into a separate agreement that shall delineate the powers, rights, and responsibilities of the Litigation Trustee and administration and governance of the Litigation Sub-Trust in a manner consistent with the Claimant Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The members of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of

the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in the Plan, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Claimant Trustee and Claimant Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Disputed or disallowed Claims and the allowance, prosecution, and resolution of objections to Claims and Equity Interests, subject to reporting and oversight by the Claimant Trust Oversight Committee;

(viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and

(ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expenses and shall periodically replenish such reserve, as necessary.

The Trustees, on behalf of the Claimant Trust, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests, without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that if a Litigation Sub-Trust is created upon or after the Effective Date, the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. In all circumstances, the Trustees shall act in the best interests of the Claimant Trust Beneficiaries and with the same fiduciary duties as a chapter 7 trustee.

5. *Compensation and Duties of Trustees.*

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

6. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets on behalf of the Claimant Trust, the Claimant Trustee, Litigation Trustee, and each of their counsel may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Claimant Trustee and Litigation Trustee shall have reasonable access to copies of the Debtor's and Reorganized Debtor's records and information relating to the Claimant Trust Assets, including electronic records, documents or work product related to the Claims and/or Causes of Action that constitute Claimant Trust Assets.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and/or Causes of Action that constitute Claimant Trust Assets until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust.

7. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claim Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

8. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claim Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

9. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

10. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust and any professionals retained by the Claimant Trust from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

11. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

12. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

13. Dissolution of the Claimant Trust.

The Trustees and the Claimant Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of additional Causes of Action is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (b) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (c) all objections to Disputed Claims and Equity Interests are fully resolved, (d) the Reorganized Debtor is dissolved, and (e) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

C. The Reorganized Debtor

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor.

The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Debtor. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

6. *Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets*

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement, the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

D. Company Action

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action

under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

E. Release of Liens, Claims and Equity Interests

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

F. Cancellation of Notes, Certificates and Instruments

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

G. Cancellation of Existing Instruments Governing Security Interests

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

H. Control Provisions

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

I. Treatment of Vacant Classes

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

J. Plan Documents

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

ARTICLE V.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to a Final Order of the Bankruptcy Court entered prior to the Effective Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan Supplement, on the Effective Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Effective Date, the Debtor or the Reorganized Debtor, as applicable, may assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Effective Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Effective Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as Convenience Claims or General Unsecured Claims, as applicable, and shall be treated in accordance with ARTICLE III of this Plan.

C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Effective Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

D. Assumption of Insurance Policies

Upon the Effective Date, the Reorganized Debtor will assume all of the Insurance Policies pursuant to section 365(a) of the Bankruptcy Code and all such Insurance Policies shall vest in the Reorganized Debtor. Unless previously effectuated by separate order entered by the Bankruptcy Court, entry of the Confirmation Order will constitute the Bankruptcy Court’s approval of the Debtor’s foregoing assumption of each of the Insurance Policies and all such Insurance Policies shall continue in full force and effect thereafter in accordance with their respective terms. Notwithstanding anything to the contrary contained in this Plan, confirmation of this Plan will not impair or otherwise modify any rights of the Debtor or the Reorganized Debtor under the Insurance Policies. To the extent that any Insurance Policy is not assumable, it will be Reinstated.

ARTICLE VI.
PROVISIONS GOVERNING DISTRIBUTIONS

A. Dates of Distributions

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the

performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

B. Distribution Agent

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

C. Cash Distributions

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

D. Disputed Claims Reserve

As set forth in the Claimant Trust Agreement, the Claimant Trustee, as Distribution Agent, shall establish, fund, and maintain a reserve at the Claimant Trust. Any payments to be made under this Plan after the Effective Date shall be paid from the Disputed Claims Reserve as set forth in the Claimant Trust Agreement. Upon the resolution of all Disputed Claims, funds remaining in the Disputed Claims Reserve shall be allocated in the manner set forth in the Claimant Trust Agreement.

E. Rounding of Payments

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as “Unclaimed Property” under this Plan.

F. De Minimis Distribution

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.I hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

G. Distributions on Account of Allowed Claims

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

H. General Distribution Procedures

The Distribution Agent, shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

I. Address for Delivery of Distributions

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

J. Undeliverable Distributions and Unclaimed Property

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

K. Withholding Taxes

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld

pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

L. Setoffs

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however*, that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

M. Surrender of Cancelled Instruments or Securities

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

N. Lost, Stolen, Mutilated or Destroyed Securities

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.N of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

ARTICLE VII.
PROCEDURES FOR RESOLVING CONTINGENT,
UNLIQUIDATED AND DISPUTED CLAIMS

A. Filing of Proofs of Claim

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

B. Disputed Claims

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest or any other appropriate motion or adversary proceeding with respect thereto, which shall be litigated to Final Order or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

C. Procedures Regarding Disputed Claims or Disputed Equity Interests

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest, even if a portion of the Claim is not disputed, unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

D. Allowance of Claims and Equity Interests

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity

Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.

**ARTICLE VIII.
EFFECTIVENESS OF THIS PLAN**

A. Conditions Precedent to the Effective Date

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the

Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have been entered, not subject to stay pending appeal, and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.
- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent

required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.

B. Waiver of Conditions

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

C. Effect of Non-Occurrence of Conditions to Effectiveness

Unless waived as set forth in ARTICLE VIII.B, if the Effective Date of this Plan does not occur within twenty calendar days of entry of the Confirmation Order, the Debtor may withdraw this Plan and, if withdrawn, the Plan shall be of no further force or effect.

D. Dissolution of the Committee

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

ARTICLE IX.

EXCULPATION, INJUNCTION AND RELATED PROVISIONS

A. General

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and

equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

B. Discharge of Claims

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

C. Exculpation

To the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v); *provided, however*, the foregoing will not apply to any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

D. Releases by the Debtor

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured,

existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, or (iv) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

E. Preservation of Rights of Action

1. Maintenance of Causes of Action

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

2. Preservation of All Causes of Action Not Expressly Settled or Released

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

F. Injunction

Upon entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective Related Persons, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether proof of such Claims or Equity Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective Related Persons, are permanently enjoined, on and after the Effective Date, with respect to such Claims and Equity Interests, from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or the property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust, (iv) asserting any right of setoff, directly or indirectly, against any obligation due from the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust or against property or interests in property of any of the Debtor, the Independent Directors, the Reorganized Debtor, or the Claimant Trust; and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

The injunctions set forth herein shall extend to any successors of the Debtor, the Reorganized Debtor, and the Claimant Trust and their respective property and interests in property.

No Entity may commence or pursue a claim or cause of action of any kind against any Protected Party that arose from or is related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice, that such claim or cause of action represents a colorable claim of bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Entity to bring such claim against any such Plan Party. As set forth in ARTICLE XI, the Bankruptcy Court will have sole jurisdiction to adjudicate any such claim for which approval of the Bankruptcy Court to commence or pursue has been granted.

G. Term of Injunctions or Stays

Unless otherwise provided in this Plan, the Confirmation Order, or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

**ARTICLE X.
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.
RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan as legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect

to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;

- make any determination with respect to a claim or cause of action against a Plan Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Plan Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts,

instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;

- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

ARTICLE XII.

MISCELLANEOUS PROVISIONS

A. Payment of Statutory Fees and Filing of Reports

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

B. Modification of Plan

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

C. Revocation of Plan

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

D. Entire Agreement

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

E. Closing of Chapter 11 Case

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

F. Successors and Assigns

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

G. Reservation of Rights

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

H. Further Assurances

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

I. Severability

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered

or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

J. Service of Documents

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Claimant Trust:

[_____]]
Telephone: [_____]]
Facsimile: [_____]]
Attention: [_____]]

If to the Debtor:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Telephone: [_____]]
Facsimile: [_____]]
Attention: James P. Seery, Jr.

with copies to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Attn: Jeffrey N. Pomerantz, Esq.
Ira D. Kharasch, Esq.
Gregory V. Demo, Esq.

If to the Reorganized Debtor:

Highland Capital Management, L.P.
Telephone: [_____]]
Facsimile: [_____]]
Attention: James P. Seery, Jr.

with copies to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Attn: Jeffrey N. Pomerantz, Esq.
Ira D. Kharasch, Esq.
Gregory V. Demo, Esq.

K. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

L. Governing Law

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

M. Tax Reporting and Compliance

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

N. Exhibits and Schedules

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

O. Controlling Document

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

[Remainder of Page Intentionally Blank]

Dated: September 21, 2020

Respectfully submitted,

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: 

James P. Seery, Jr.
Chief Executive Officer and Chief
Restructuring Officer

Prepared by:

PACHULSKI STANG ZIEHL & JONES LLP

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and

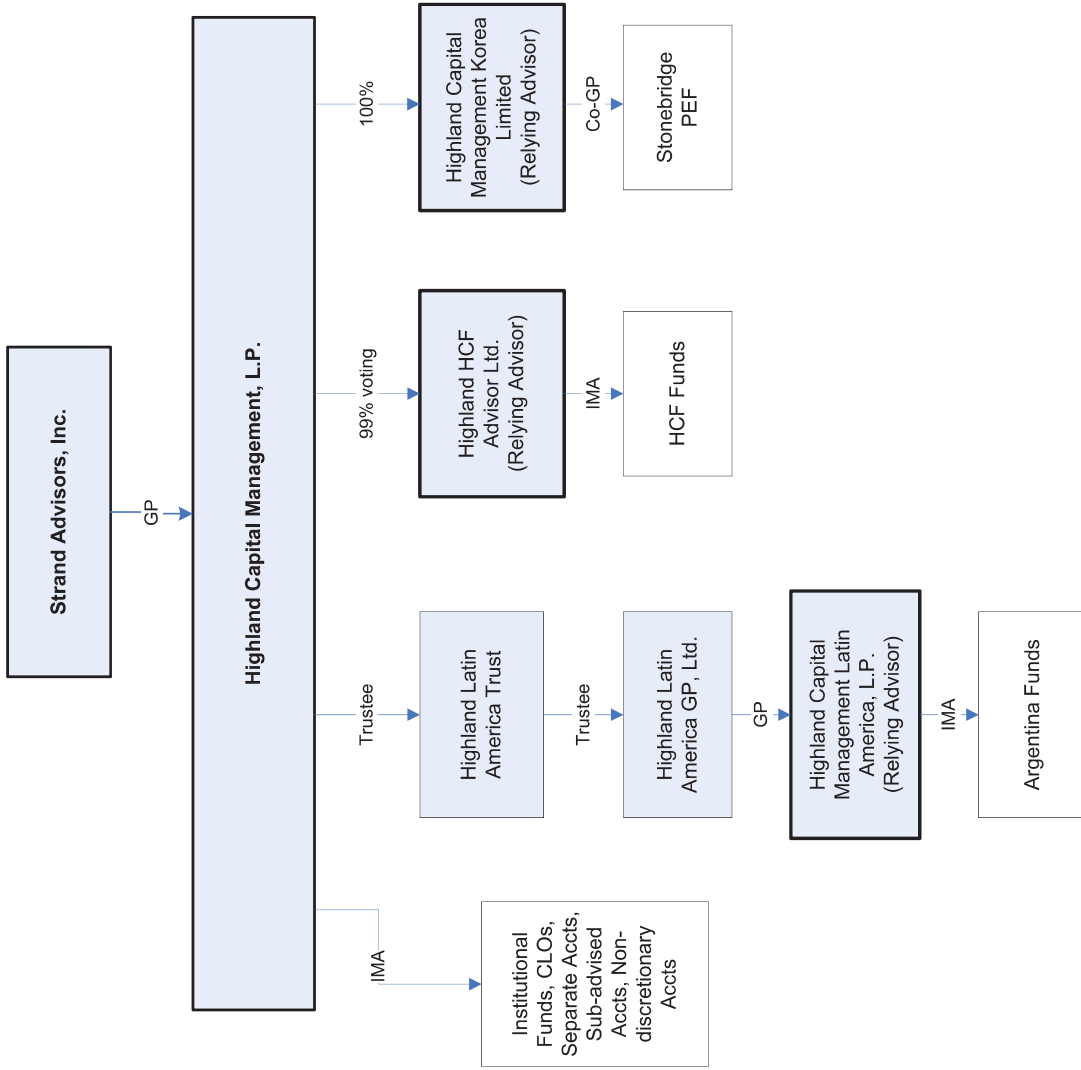
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Counsel for the Debtor and Debtor-in-Possession

EXHIBIT B

ORGANIZATIONAL CHART OF THE DEBTOR



PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
Ira D. Kharasch (CA Bar No. 109084) (*admitted pro hac vice*)
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Counsel for the Debtor and Debtor-in-Possession

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

In re: §
§ Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ §
§ Case No. 19-34054-sgj11
§
Debtor. §

**DEBTOR’S MOTION FOR ENTRY OF AN ORDER APPROVING
SETTLEMENTS WITH (A) THE REDEEMER COMMITTEE OF THE HIGHLAND
CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND CRUSADER FUNDS
(CLAIM NO. 81), AND AUTHORIZING ACTIONS CONSISTENT THEREWITH**

¹ 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.

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT THE EARLE CABELL FEDERAL BUILDING, 1100 COMMERCE STREET, RM. 1254, DALLAS, TEXAS 75242-1496 BEFORE THE CLOSE OF BUSINESS ON OCTOBER 19, 2020, WHICH IS AT LEAST 24 DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED, A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

TO THE HONORABLE STACEY G. C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE:

The above-captioned debtor and debtor-in-possession (the “Debtor” or “HCMLP”) files this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A**, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), approving a settlement agreement (the “Stipulation”), a copy of which is attached as **Exhibit 1** to the *Declaration of John A. Morris in Support of the Debtor’s Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith*, executed on September 23, 2020 (the “Morris Dec.”), that fully and finally resolves the proofs of claim filed by (A) the Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”), and (B) Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland

Crusader Fund II, Ltd. (collectively, the “Crusader Funds”). In support of this Motion, the Debtor represents as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are sections 105(a) and 363 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 9019 of the Bankruptcy Rules.

RELEVANT BACKGROUND

A. Procedural Background

3. 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”).

4. On October 29, 2019, the official committee of unsecured creditors (the “Committee”) was appointed by the United States Trustee in the Delaware Court.

5. On December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor’s bankruptcy case to this Court [Docket No. 186].²

6. On December 27, 2019, the Debtor filed that certain *Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [Docket No.

² All docket numbers refer to the docket maintained by this Court.

281] (the “Settlement Motion”). This Court approved the Settlement Motion on January 9, 2020 [Docket No. 339] (the “Settlement Order”).

7. In connection with the Settlement Order, an independent board of directors was constituted at the Debtor’s general partner, Strand Advisors, Inc. (the “Independent Board”), and certain operating protocols were instituted (the “Protocols”).

8. On July 16, 2020, this Court entered an order appointing James P. Seery, Jr., as the Debtor’s chief executive officer and chief financial officer [Docket No. 854].

9. The Debtor has continued in the possession of its property and has continued to operate and manage its business as a 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 case.

B. The Redeemer Committee’s Claim

10. The Crusader Funds were formed between 2000 and 2002. HCMLP served as the Crusader Funds’ investment manager until August 2016.

11. In October 2008, at the height of the financial crisis, HCMLP commenced wind-down proceedings on behalf of the Crusader Funds.

12. The Redeemer Committee was formed pursuant to a *Joint Plan of Distribution of the Crusader Funds* (the “Plan”) and a *Scheme of Arrangement Between the Crusader Funds and Their Scheme Creditors* (the “Scheme”) that were adopted in 2011 to resolve certain disputes arising in connection with the Crusader Funds’ wind-down proceedings.

13. HCMLP served as the investment manager for the Crusader Funds until August 4, 2016, as of which date the Redeemer Committee, as set forth in a letter and notice dated July 5, 2016, terminated HCMLP.

14. On July 5, 2016, the Redeemer Committee commenced an arbitration against HCMLP by filing a Notice of Claim with the American Arbitration Association (the “AAA”) in which it asserted various claims arising from HCMLP’s service as the investment manager for the Crusader Funds (the “Arbitration”).³

15. Following an evidentiary hearing, the panel of arbitrators (the “Panel”) issued (a) a *Partial Final Award*, dated March 6, 2019 (the “March Award”), (b) a *Disposition of Application for Modification of Award*, dated March 14, 2019 (the “Modification Award”), and (c) a *Final Award*, dated May 9, 2019 (the “Final Award,” and together with the March Award and the Modification Award, the “Arbitration Award”). Morris Dec. Exhibits 2, 3, and 4, respectively.

16. Pursuant to the Arbitration Award, the Redeemer Committee was awarded gross damages in the aggregate amount of \$136,808,302.00; as of the Petition Date, the total value of the Arbitration Award was \$190,824,557.00, inclusive of interest (the “Damage Award”).

17. Prior to the Petition Date, the Redeemer Committee timely moved in the Chancery Court to confirm the Arbitration Award. For its part, HCMLP moved to vacate parts of the Final Award contending that the following aspects of the Awards were procedurally improper: (a) the award of damages and equitable relief arising in connection with the “Barclays Claim” (as such term is used in the Arbitration Award); (b) the award of prejudgment interest

³ The Redeemer Committee and the Debtor subsequently became engaged in additional lawsuits and actions, the following of which were pending as of the Petition Date: (a) *Redeemer Committee of the Highland Crusader Fund v. Highland Capital Management, L.P.*, Chancery Court, Delaware, C.A. No. 12533-VCG (the “Delaware Action”); (b) *Redeemer Committee of the Highland Crusader Fund and Highland Capital Management, L.P.*, Supreme Court of Bermuda, Civil Jurisdiction, Case No. 01-16-0002-6927 (“Bermuda Action No. 1”); (c) *Highland Capital Management, L.P. and Redeemer Committee of the Highland Crusader Fund*, Supreme Court of Bermuda, Civil Jurisdiction (Commercial Court), 2017: No. 308 (“Bermuda Action No. 2”); and (d) *Redeemer Committee of the Highland Crusader Fund and Highland Capital Management, L.P.*, Grand Court of Cayman Islands, Financial Services Division, Cause No. 153 of 2019 (CRJ) (the “Grand Cayman Action” and together with the Delaware Action and Bermuda Action No. 1, are referred to as the “Redeemer Actions” and the Redeemer Actions and Bermuda Action No. 2 are collectively referred to as the “Pending Actions”).

after March 6, 2019, including that the interest be compounded; and (c) the addition of attorneys' and experts' fees based on evidence admitted after the record was purportedly closed.

18. HCMLP's procedural challenges were largely based on the argument that the March Award should have been treated as the "final" award such that the Panel was without authority to render the Modification Award and the Final Award and the relief granted therein ("HCMLP's Motion to Vacate").⁴ Notably, HCMLP did not challenge any of the factual findings, credibility assessments, or substantive legal conclusions rendered by the Panel.

19. The Redeemer Committee's motion to confirm the Arbitration Award and HCMLP's Motion to Vacate were fully briefed and were scheduled to be heard by the Chancery Court on the day Highland filed for bankruptcy.

20. On April 3, 2020, the Redeemer Committee filed a general unsecured claim in the amount of \$190,824,557.00, plus "post-petition interest, attorneys' fees, costs and other expenses that [allegedly] continue[d] to accrue." *See* Morris Dec. Exhibit 5 (Proof of Claim No. 72, Rider at 1-2).

C. The Crusader Fund's Claim

21. On April 6, 2020, the Crusader Funds filed a general unsecured claim in the amount of \$23,483,446.00, plus "post-petition interest, attorneys' fees, costs and other expenses

⁴ The Award was subject to the Federal Arbitration Act, under which an award will only be vacated upon a showing that:

(1) . . . the award was procured by corruption, fraud, or undue means; (2) . . . there was evident partiality or corruption in the arbitrators, or either of them; (3) . . . the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or (4) the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

9 U.S.C. § 10. To challenge an award, a party must move to vacate within three months of delivery of the Award to the parties. 9 U.S.C. § 12.

that [allegedly] continue[d] to accrue.” *See* Morris Dec. Exhibit 6 (Proof of Claim No. 81, Rider at 1-2).⁵

22. The Crusader Funds’ claim sought the disgorgement of all management, distribution, and deferred fees paid to HCMLP based on the so-called “faithless servant” doctrine.

D. Summary of Settlement Terms⁶

23. The Stipulation contains the following material terms:

- The Redeemer Committee’s claim (Claim No. 72) shall be allowed in the amount of \$136,696,610.00 as a general unsecured claim;
- The Crusader Funds’ claim (Claim No. 81) shall be allowed in the amount of \$50,000.00 as a general unsecured claim;
- The Debtor and Eames will each (a) consent to the cancellation of certain interests in the Crusader Funds held by them that the Panel found were wrongfully acquired, and (b) agree that they will not object to the cancellation of certain interests in the Crusader Funds held by the Charitable DAF that the Panel also found were wrongfully acquired;
- The Debtor and Eames will each acknowledge that they will not receive any portion of the Reserved Distributions, and the Debtor will further acknowledge that, beginning as of the Stipulation Effective Date, it will not receive any payments from the Crusader Funds in respect of any Deferred Fees, Distribution Fees, or Management Fees;
- The Debtor and the Redeemer Committee agreed to a form of amendment to the Cornerstone Shareholders’ Agreement and to a process whereby the Debtor shall, in good faith, use commercially reasonable efforts to

⁵ The Crusader Funds also asserted a right to recover the damages granted under the Arbitration Award, but expressly acknowledged that they would “withdraw this portion of their claim if and to the extent that the Redeemer Committee’s claim is allowed.” Morris Dec. Exhibit 6 at 2.

⁶ For purposes of convenience, set forth herein is a summary of the material terms of the Stipulation. If there is an actual or perceived conflict or inconsistency between the summary and the Stipulation, the terms of the Stipulation shall govern. Capitalized terms not defined herein shall have the meanings ascribed to them in the Stipulation.

monetize all shares of capital stock of Cornerstone held by the Debtor, any funds managed by the Debtor, and the Crusader Funds;⁷

- Upon the Stipulation Effective Date, the Parties and the Additional Release Parties shall exchange releases as set forth in the Stipulation; and⁸
- The Debtor shall dismiss Bermuda Action No. 2 with prejudice, and the Redeemer Committee and the Crusader Funds covenant not to prosecute, and shall not prosecute, any of the Redeemer Actions against the Debtor, Eames, or any of the Additional Highland Release Parties.

24. As discussed below, the Stipulation incorporates certain compromises between the Debtor, the Redeemer Committee, and the Crusader Funds with respect to, among other things, the disposition of Deferred Fees and the treatment of the Cornerstone Shares held by the Crusader Funds.

25. Under the Plan and Scheme, HCMLP agreed to defer receipt of certain Deferred Fees until the liquidation of the Crusader Funds was completed. Despite the terms of the Plan and Scheme, HCMLP transferred to itself \$32,313,000.00 in Deferred Fees from the Crusader Funds' accounts in early 2016. The Redeemer Committee asserted that the Deferred Fees were prematurely taken and had to be returned. The Panel agreed and the \$32,313,000.00 is included as part of the Damage Award.

26. During its negotiations with the Redeemer Committee and the Crusader Funds, the Debtor contended that while the Deferred Fees were found to have been prematurely taken, HCMLP would ultimately be entitled to recover the Deferred Fees upon the completion of the Crusader Funds' liquidation. The Redeemer Committee and the Crusader Funds, on the other

⁷ The parties continue to discuss the terms of the schedule that was to be attached as Exhibit B to the Stipulation and will file the final version of Exhibit B after the Court rules on the Debtor's motion to file certain documents (including Exhibit B) under seal.

⁸ The Stipulation, as filed, has not been executed by two of the Additional Highland Release Parties, Highland Financial Partners, L.P. and Highland Special Opportunities Holding Company. The Stipulation provides that the Debtor will use commercially reasonable efforts to cause these entities to execute the Stipulation no later than the date on which this Court enters an order confirming a plan. In the event such an Additional Highland Release Party does not execute the Stipulation, it will not receive any of the releases set forth in the Stipulation.

hand, contended that (a) the Redeemer Committee was entitled to recover all of the Deferred Fees found by the Panel to have been wrongfully taken, (b) the earliest the Debtor could seek to recover those Deferred Fees is upon complete liquidation of the Crusader Funds, which has not yet occurred, and (c) the Debtor is precluded from recovering any of those Fees—even upon the completion of the Crusader Funds’ liquidation—from the Crusader Funds under the “faithless servant” doctrine. The Debtor disputed the latter contention on the basis of waiver and estoppel since the Redeemer Committee had failed to raise the defense in the Arbitration, but the Redeemer Committee contended that it had no obligation to raise that defense given the procedural posture that existed at the time and that the Crusader Funds, from which any Deferred Fees would ultimately be paid, had not been a party to the Arbitration and hold their own claim relating to the Deferred Fees.⁹

27. After extensive, arm’s-length negotiations, the Debtor and the Redeemer Committee agreed to reduce the Damage Award by \$21,592,000.00, or approximately two-thirds of the Deferred Fees that the Panel found HCMLP had prematurely taken but that the Debtor contended it would have nevertheless been entitled to recover upon the completion of the Crusader Funds’ liquidation.

28. The other substantial compromise concerned the treatment of the Cornerstone Shares held by the Crusader Funds.

29. Cornerstone Healthcare Group (“Cornerstone”) owns hospitals and other healthcare-related entities. HCMLP directly and indirectly controlled 100% of Cornerstone’s common stock, some of which was held by the Crusader Funds.

⁹ Specifically, the Redeemer Committee contended that because it sought to affirmatively recover the Deferred Fees in the Arbitration under theories of breach of contract and breach of fiduciary duty, it was not required to raise the “faithless servant” doctrine because that is a defense that would only be required to be asserted when HCMLP made a claim for the Deferred Fees—as it did during the negotiations.

30. During the Arbitration, the Redeemer Committee established that (a) HCMLP covertly purchased certain shares in Cornerstone from another HCMLP-managed Fund at what the Panel found was a below market price, and that (b) HCMLP had otherwise breached its fiduciary duty to the Crusader Funds by failing to liquidate the Crusader Funds' shares in Cornerstone. The Panel found in favor of the Redeemer Committee on this claim and ordered HCMLP to purchase the Crusader Funds' shares in Cornerstone at a fixed price of \$48,070,407.00, plus pre-judgment interest.

31. After extensive, arm's-length negotiations, the parties agreed to treat the Cornerstone Shares differently from the process required under the Arbitration Award. Specifically, rather than having the Debtor purchase the Crusader Funds' shares in Cornerstone for approximately \$48 million, pursuant to the Stipulation (a) the Crusader Funds will retain their shares in Cornerstone, (b) the Damage Award will be reduced by approximately \$30.5 million to account for the perceived fair market value of those shares, (c) the Cornerstone Shareholders' Agreement will be amended to, among other things, remove certain restrictions, and (d) the parties have agreed upon a process to market and sell Cornerstone.

32. In addition to the forgoing, the parties also agreed on other modest reductions to the Damage Award resulting in an agreement by which the Redeemer Committee shall receive an allowed, general unsecured claim in the amount of \$136,696,610.00 and the other consideration provided under the Stipulation.

E. UBS's Objection to the Redeemer Committee's Claim

33. On August 26, 2020, UBS Securities LLC and UBS AG, London Branch (together, "UBS") filed their *Objection to the Proof of Claim Filed by Redeemer Committee of*

the Highland Crusader Fund [Docket No. 996] (the “UBS Objection”).¹⁰ UBS challenges the Redeemer Committee’s claim in three respects.

34. First, UBS raises the same procedural arguments asserted in HCMLP’s Motion to Vacate. Specifically, UBS contends that the “arbitration panel impermissibly substantively (and unilaterally) modified several aspects of its first ‘final’ arbitral award *after* that award had already been issued” such that any relief granted pursuant to the Modification Award and the Final Award is barred by the “long-standing common law doctrine of *functus officio*” and the AAA’s own rules. UBS Objection at 1; *see also id.* ¶¶ 12-16, 23-32. As discussed in detail below, the Panel considered and rejected these arguments as part of the Final Award.¹¹

35. Second, UBS asserts that the value of the settlement must take into account certain obligations that the Redeemer Committee owes to the Debtor, specifically as they relate to the Cornerstone Shares that were to be surrendered under the Arbitration Award and the Deferred Fees that the Debtor would arguably be entitled to upon the completion of the Crusader Funds’ liquidation. UBS Objection ¶¶ 33-37. As set forth above, however, these obligations were fully considered by the Debtor and form the basis for substantial compromises embedded in the Stipulation. *See supra* ¶¶ 24-31.

36. Finally, UBS takes issue with the Redeemer Committee’s characterization of the Arbitration Award as an executory contract. UBS Objection ¶¶ 21-22.

37. Each of these objections is addressed below.

¹⁰ The UBS Objection is the only objection lodged against the proofs of claim filed by the Redeemer Committee and the Crusader Funds.

¹¹ The Panel was comprised of three highly regarded attorneys: John S. Martin, Jr., a former United States Attorney for the Southern District of New York and a former United States District Court Judge for the Southern District of New York; David Brodsky, a former federal prosecutor and partner at Latham & Watkins and Schulte Roth & Zabel and a Fellow of the American College of Trial Lawyers; and Michael D. Young, one of the most highly-regarded arbitrators in the country who has been a full-time neutral for more than thirty years and who has presided over more than 300 arbitrations, appraisals, or other binding dispute resolution proceedings.

BASIS FOR RELIEF REQUESTED

38. Bankruptcy Rule 9019 governs the procedural prerequisites to approval of a settlement, providing that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

FED. R. BANKR. P. 9019(a).

39. Settlements in bankruptcy are favored as a means of minimizing litigation, expediting the administration of the bankruptcy estate, and providing for the efficient resolution of bankruptcy cases. *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996); *see also Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 602 (5th Cir. 1980). Pursuant to Bankruptcy Rule 9019(a), a bankruptcy court may approve a compromise or settlement as long as the proposed settlement is fair, reasonable, and in the best interest of the estate. *See In re Age Ref. Inc.*, 801 F.3d 530, 540 (5th Cir. 2015). Ultimately, “approval of a compromise is within the sound discretion of the bankruptcy court.” *See United States v. AWECO, Inc. (In re AWECO, Inc.)*, 725 F.2d 293, 297 (5th Cir. 1984); *Jackson Brewing*, 624 F.2d at 602–03.

40. In making this determination, the United States Court of Appeals for the Fifth Circuit applies a three-part test, “with a focus on comparing ‘the terms of the compromise with the rewards of litigation.’” *Official Comm. of Unsecured Creditors v. Cajun Elec. Power Coop. (In re Cajun Elec. Power Coop.)*, 119 F.3d 349, 356 (5th Cir. 1997) (citing *Jackson Brewing*, 624 F.2d at 602). The Fifth Circuit has instructed courts to consider the following factors: “(1) The probability of success in the litigation, with due consideration for the uncertainty of law and fact, (2) The complexity and likely duration of the litigation and any attendant expense,

inconvenience and delay, and (3) All other factors bearing on the wisdom of the compromise.”

Id.

41. Under the rubric of the third factor referenced above, the Fifth Circuit has specified two additional factors that bear on the decision to approve a proposed settlement. First, the court should consider “the paramount interest of creditors with proper deference to their reasonable views.” *Id.*; *Conn. Gen. Life Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortgage Corp.)*, 68 F.3d 914, 917 (5th Cir. 1995). Second, the court should consider the “extent to which the settlement is truly the product of arms-length bargaining, and not of fraud or collusion.” *Age Ref. Inc.*, 801 F.3d at 540; *Foster Mortgage Corp.*, 68 F.3d at 918 (citations omitted).

42. There is ample basis to approve the proposed Stipulation with the Redeemer Committee and the Crusader Funds based on the Bankruptcy Rule 9019 factors set forth by the Fifth Circuit.

A. Probability of Success in the Litigation

43. The Debtor is unlikely to succeed in contesting the Redeemer Committee’s claim because the claim is based on the Arbitration Award, which itself was the product of the following circumstances:

- The proceedings began in July 2016 and concluded in April 2019, almost three years later;
- The arbitration was presided over by a highly regarded Panel (*see supra* n.9);
- The Panel held an evidentiary hearing spanning nine days in September 2018;
- The Panel heard testimony from eleven fact witnesses and four expert witnesses; and

- The Arbitration Award addressed every claim and argument asserted by the parties and the Panel resolved each with detailed legal and factual findings and credibility determinations.

See Morris Dec. Exhibit 2 §§ E, F at 4-7.

44. Thus, there can be no dispute that the Arbitration Award was the product of an adversarial but deliberative process where the parties were afforded the opportunity to present their evidence and arguments. Consequently, there is virtually no likelihood that the Arbitration Award—and hence the Redeemer Committee’s claim—could be subject to a wholesale attack.

45. The three issues raised by UBS are either unlikely to succeed, have been mooted by the terms of the Stipulation, or are legally irrelevant.

46. First, UBS disputes the Redeemer Committee’s contention that the Arbitration Award is an executory contract. *Compare* UBS Objection ¶¶ 21-22 *with* Morris Dec. Exhibit 5 (Rider at 1). This issue is (a) moot because the Stipulation does not treat the Arbitration Award as an executory contract, and (b) legally irrelevant because even if the Debtor successfully challenged the Redeemer Committee’s characterization of the Arbitration Award as an executory contract, the Redeemer Committee could simply move to lift the automatic stay for the sole purpose of having the Arbitration Award confirmed, thereby eliminating the alleged “contingent” nature of the claim.

47. Second, UBS challenges the Redeemer Committee’s claim on the ground that it “must take into account reciprocal obligations Redeemer owes to the Debtor.” UBS Objection ¶¶ 33-37. As set forth above, this issue is also moot because these obligations were taken into account by the Debtor and form the basis for substantial compromises exceeding \$40 million in value embedded in the Stipulation. *See supra* ¶¶ 24-31.

48. Finally, UBS's remaining challenge to the Redeemer Committee's claim repeats the arguments made in HCMLP's Motion to Vacate. Specifically, UBS contends that the "arbitration panel impermissibly substantively (and unilaterally) modified several aspects of its first 'final' arbitral award *after* that award had already been issued" such that any relief granted pursuant to the Modification Award and the Final Award is barred by the "long-standing common law doctrine of *functus officio*" and the AAA's own rules. UBS Objection at 1; *see also id.* ¶¶ 12-16, 23-32.

49. These procedural attacks on the Arbitration Award were considered and rejected by the Panel and are unlikely to succeed in undermining the Redeemer Committee's claim here (or in the Chancery Court if the stay were lifted for the purpose of allowing the Redeemer Committee to confirm its award).

50. Specifically, the Panel found that the March Award was not a "final" award, observing that it had "explicitly denominated the award of March 6 as a 'Partial Final Award,' making clear to the Parties that the arbitral proceeding was still ongoing. We also explicitly left the hearing open so the parties could meet and confer or make submissions, including providing additional evidence, 'until *all issues* set forth . . . have been agreed to by the Parties or decided by the Tribunal.' Under these circumstances, the doctrine of *functus officio* does not apply." Morris Dec. Exhibit 4 at 4-5 (emphasis in original).

51. Given that (a) the March Award was explicitly labeled a "Partial Final Award," (b) the parties were directed to confer on issues of damages, interest, and the value of the attorneys' fees awarded to the Redeemer Committee, and (c) the Panel expressly determined to "leave the hearing open until all issues set forth above have been agreed upon by the Parties or

decided by the Tribunal,” it is difficult to understand how the March Award could be treated as a “final” award that fully and finally resolved all issues.¹²

52. UBS specifically attacks those portions of the Modification Award and Final Award concerning the treatment of prejudgment interest and the so-called “Barclays Claim.” UBS Objection ¶ 12. These attacks are unlikely to succeed.

53. On the issue of interest, the Panel found that the parties had been directed in the March Award to confer on the issue and that the Panel would decide if the parties could not agree.¹³ Because the parties could not reach an agreement, the Panel ruled (a) in the Redeemer Committee’s favor by awarding interest through the earlier of the date of payment or the entry of judgment, but (b) in HCMLP’s favor by rejecting the Redeemer Committee’s request for compounded interest. Morris Dec. Exhibit 4, Section E.b.v at 14-15.

54. On the issue of the “Barclay’s Claim,” UBS conflates two separate and distinct issues arising from HCMLP’s settlement of Barclays’ lawsuit against the Crusader Funds and otherwise fails to properly acknowledge the Panel’s ruling on the Redeemer Committee’s Barclays Claim. UBS asserts that “the Panel did not treat HCM’s transfers of the Barclays LP Interests to Eames as an independent wrongdoing. Instead, the Partial Final Award only ever discussed the transfer of the Barclays LP Interests in the context of one of Redeemer’s broader sets of claims, known as its “Distribution Fee Claim.”” UBS Objection ¶ 12. UBS is mistaken.

¹² The AAA Rules specifically permit an arbitral panel to issue a partial award and leave the record open for further submissions. AAA R-47(b) (“In addition to a final award, the arbitrator may make other decisions, including interim, interlocutory, or partial rulings, orders and awards”); AAA R-40 (“The hearing may be reopened on the arbitrator’s initiative, or by the direction of the arbitrator upon application of a party, at any time before the award is made.”) The Rules also give to the arbitrators the power to interpret the Rules. AAA R-8.

¹³ In the March Award, the Panel stated, among other things, that “[w]ith respect to the claims below for which we find liability and direct the payment of damages and interest, if the parties are not able to agree on the amount of damages and interest, we direct them to submit simultaneous briefs to the Panel on the issues within thirty (30) days of the date of this Partial Final Award.” Morris Dec. Exhibit 2 at 53. The parties were unable to agree on all issues concerning interest and complied with the March Award by timely submitting briefs on the topic. Morris Dec. Exhibit 4 at 2-3.

55. In the Arbitration, the Redeemer Committee raised two separate claims arising from the Barclays settlement. The Redeemer Committee claimed that HCMLP breached the Plan and its fiduciary duties by transferring Barclay’s limited partnership interests in the Crusader Funds to HCMLP’s wholly-owned affiliate, Eames, over the Redeemer Committee’s refusal to approve that transfer and sought disgorgement of those partnership interests and of the distributions Eames had received from the Crusader Fund made on account of those interests. Morris Dec. Exhibit 2 § F.6 at 21 (the “Barclays Claim”). In addition, as part of its claim to recover distribution fees improperly paid to HCMLP, the Redeemer Committee sought to recover fees that HCMLP had paid itself based upon distributions to those ill-gotten LP interests. *Id.* § C.3 at 15 (the “Distribution Fee Claim”).

56. The Panel found in the Redeemer Committee’s favor on both claims. In the March Award—and contrary to UBS’s mistaken assertion—the Panel independently found the Debtor liable for the Barclays Claim: “We find that Highland breached the Plan and Scheme by transferring the LP interests to a wholly-controlled affiliate [*i.e.*, Eames] after the Committee had specifically disapproved of the transfer.” *Id.* § F.7 at 21. But unlike the other claims on which it found the Debtor liable, the Panel omitted a discussion of the relief awarded for the Barclays Claim.

57. The Redeemer Committee filed a timely motion under AAA Arbitration Rule 50 seeking (a) clarification from the Panel whether a discussion of the relief awarded for the Barclays Claim was inadvertently omitted from the March Award, and (b) modification of the March Award to include the Panel’s findings regarding that relief. Morris Dec. Exhibit 4 at 8-10. That Motion was fully briefed. *Id.* at 2, 8-10. The Panel granted the Motion, specifically rejecting the same argument that UBS makes in its Objection. The Panel found, among other

things, that “we are not adding an ‘additional award,’ as it is clear from the structure of the Partial Final Award that a paragraph was missing from the damages portion; all other findings of liability were accompanied by a section delineating the applicable damages except for the finding of a breach of the Plan and Scheme by reason of the transfer of LP interests to Eames [W]e found liability in two respects [*i.e.*, with respect to the Distribution Fee Claim and the Barclays Claim] but omitted a paragraph regarding the remedy for Respondent’s breach of the Plan and Scheme that we had found with respect to the transfer, without the required Committee approval, of Barclays’ fund interests to itself through entities it controlled as part of the settlement. That omission is a classic example of a clerical error.” *Id.* § E.b ¶ 5 at 9.

58. Under the AAA Rules which were incorporated into the parties’ arbitration agreement, “[t]he arbitrator shall interpret and apply these rules insofar as they relate to the arbitrator’s powers and duties.” AAA Rule 8; *see also* AAA Rule 7(a) (“The arbitrator shall have the power to rule on his or her own jurisdiction.”) Thus, the Panel had discretion to decide whether the modification of the March Award was warranted and to modify that Award to include the additional relief which UBS now seeks to challenge. Under the Federal Arbitration Act, this Court would be required to defer to the Panel’s exercise of that discretion. *Commc’ns Workers of Am., AFL-CIO v. Sw. Bell Tel. Co.*, 953 F.3d 822, 827 (5th Cir. 2020) (holding that the AAA rule “authoriz[ing] an arbitrator to ‘interpret and apply [the AAA] rules’ binds the parties to the arbitrator’s interpretation so long as it is ‘within reasonable limits’ . . . even where ‘reasonable judges and arbitrators could interpret the AAA rules differently’”); *Troegel v. Performance Energy Servs., LLC*, 2020 WL 4370881, at *8 (M.D. La. July 30, 2020)

(“Similarly, the Arbitrator has the power to interpret the arbitration rules, so that is also not a ground for vacating the attorneys’ fee award.”)¹⁴

B. The Complexity, Duration, Expense, and Delay Related to Litigation

59. The issues relating to the Redeemer Committee are fairly complex; litigation would require meaningful resources, would take time, and would delay the Debtor’s efforts to get to a confirmable plan.

60. Among the issues the settlement avoids are those relating to setoff. Setoff issues are notoriously complex and would arise with respect to the Deferred Fees and Cornerstone issues.¹⁵

61. Litigation of these issues, among others, would take time and would either delay confirmation of the Debtor’s plan or leave another substantial dispute to be litigated through a post-confirmation trust to the prejudice of all stakeholders.

C. The Stipulation Is in the Creditors’ Best Interests

62. The proposed settlement is in the best interests of the Debtor’s creditors.

63. The Stipulation resolves what is likely the largest claim against the Debtor; it does so on reasonable terms; and it is supported by sound business reasons.

¹⁴ The Crusader Funds’ claim can be succinctly addressed. As mentioned above, the Crusader Funds assert a claim for over \$23 million in management and distribution fees based on the “faithless servant” doctrine. *See supra* ¶¶ 21-22. The Debtor believes it is very likely to defeat this claim based on, among other things, affirmative defenses including the statute of limitations, waiver, laches, and estoppel. However, given that the Crusader Funds have agreed to accept an allowed general unsecured claim in the amount \$50,000 and exchange releases as part of the Stipulation, the cost of realizing a successfully litigated outcome would be greatly outweigh the benefit of disallowing the Crusader Funds’ claim.

¹⁵ UBS speculates that “[i]n all likelihood, Redeemer will tender more in value to HCM when it is forced to turn over the Cornerstone shares than it could ever recover on this portion of its prepetition claim.” UBS’s speculation should be rejected for at least the following reasons: (a) if general unsecured claims recover just 60%, then the value of the Redeemer Committee’s claim will exceed the value of the Crusader Funds’ Cornerstone shares, even using UBS’s unsupported valuation; and (b) under principles of setoff, the Redeemer Committee may have only been required to tender shares equal in value to the recovery on its claim.

64. Pursuant to the Stipulation, among other things, the Debtor's estate (a) will immediately receive the benefit of the value of two-thirds of the Deferred Fees (through the reduction of the Damage Award by approximately \$21 million), rather than waiting for the completion of the Crusader Funds' liquidation and litigating at some future date the merits of the Crusader Funds' and Redeemer Committee's "faithless servant" defense; (b) is relieved of the obligation of paying \$48 million for the Crusader Fund's minority interest in Cornerstone (when even UBS speculates that the shares are worth less than that);¹⁶ (c) is giving no consideration on account of the Redeemer Committee's claim for post-petition interest, fees, and expenses; (d) is receiving a release of all claims by the Redeemer Committee and the Crusader Funds; (e) will avoid incurring any additional expenses opposing the Redeemer Committee's claim; (f) has obtained the Redeemer Committee's cooperation to sell the Crusader Funds' minority interest in Cornerstone along with the controlling interests held by the Debtor and other affiliates, so that the company may be sold as a whole, to the likely benefit of all creditors; and (g) all of the Pending Actions involving the Debtor will end, thereby eliminating substantial costs and disruptions.¹⁷

65. The compromises that led to these benefits are clear, and the Independent Board's decision to accept these terms is a sound exercise of its discretion.

D. The Stipulation Is the Product of Good-Faith, Arm's-Length Negotiations

66. The Stipulation is the product of good-faith, arm's-length negotiations.

¹⁶ Notably, the Debtor does not have \$48 million in cash to pay the Redeemer Committee for the Cornerstone shares.

¹⁷ Another collateral benefit of the Stipulation is that CLO Holdco, Ltd. ("CLO Holdco") has agreed to withdraw its general unsecured claim in the amount of \$11,340,751.26. See Claim No. 133. CLO Holdco's claim was based on "participation interests and tracking interests" in the Crusader Funds that were held by the Debtor. However, the Panel found that the Debtor improperly acquired those interests, and the Debtor has agreed to their cancellation in accordance with the Arbitration Award.

67. Negotiations between the parties began in earnest in the late winter and only recently concluded. At various times, the principals negotiated directly, counsel for the parties negotiated directly, and, on several occasions, lawyers and clients participated in joint negotiating sessions.

68. Over these many months, the parties and their counsel met in person (before COVID), participated in Zoom calls (after COVID), spoke telephonically, and exchanged countless written communications.

69. Numerous versions of a Term Sheet were exchanged, and the Stipulation went through multiple drafts.

70. Throughout the process, the parties acted in good faith while vigorously advocating for their respective positions.

71. In short, the process proceeded exactly as it should have.

NO PRIOR REQUEST

72. No previous request for the relief sought herein has been made to this, or any other, Court.

NOTICE

73. Notice of this Motion shall be given to the following parties or, in lieu thereof, to their counsel, if known: (a) counsel for the Redeemer Committee and the Crusader Funds; (b) the Office of the United States Trustee; (c) the Office of the United States Attorney for the Northern District of Texas; (d) the Debtor's principal secured parties; (e) counsel to the Committee; (f) counsel to UBS; and (g) parties requesting notice pursuant to Bankruptcy Rule 2002. The

Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

PRAYER

WHEREFORE, the Debtor respectfully requests entry of an order, substantially in the form attached hereto as **Exhibit A**, (a) granting the relief requested herein, and (b) granting such other relief as is just and proper.

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Dated: September 23, 2020.

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EXHIBIT A

Proposed Order

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	
	§	Case No. 19-34054-sgj11
Debtor.	§	
	§	Related to Docket No. _____

ORDER APPROVING DEBTOR’S SETTLEMENT WITH (A) THE REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND CRUSADER FUNDS (CLAIM NO. 81), AND AUTHORIZING ACTIONS CONSISTENT THEREWITH

Upon the *Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* (the “Motion”)² filed by the above-captioned debtor and debtor-in-possession (the “Debtor”); and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor’s estate, its creditors, and other parties-in-interest; and this Court having found that the Debtor’s notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion, any and all other documents filed in support of the Motion, and the UBS Objection; and this Court having determined that the legal and factual bases set forth in the

¹ 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.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Motion establish good cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is

HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Settlement, attached as **Exhibit 1** to the Morris Declaration, is approved in all respects pursuant to Bankruptcy Rule 9019.
3. The UBS Objection is overruled in its entirety.
4. The Debtor and its agents are authorized to take any and all actions necessary or desirable to implement the Settlement without need of further Court approval or notice.
5. The Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order

END OF ORDER

PACHULSKI STANG ZIEHL & JONES LLP
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	)	Case No. 19-34054-sgj11
Debtor.	)	Re: Docket No. 1080

**NOTICE OF FILING OF
(I) LIQUIDATION ANALYSIS AND (II) FINANCIAL PROJECTIONS AS EXHIBITS
TO DEBTOR’S DISCLOSURE STATEMENT FOR THE FIRST AMENDED PLAN OF
REORGANIZATION OF HIGHLAND CAPITAL MANAGEMENT, L.P.**

PLEASE TAKE NOTICE that the above-captioned debtor and debtor-in-possession (the “Debtor”) hereby files its *Liquidation Analysis* (the “Liquidation Analysis”) and *Financial*

¹ 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.

Projections (the “Financial Projections”, and collectively with the Liquidation Analysis, the “Additional Disclosure Statement Exhibits”) to be attached to the Debtor’s *Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1080] (the “Disclosure Statement”) as combined **Exhibits C/D**.

PLEASE TAKE FURTHER NOTICE that any party-in-interest wishing to obtain copies of the Additional Disclosure Statement Exhibits may do so by (i) contacting the Debtor’s Solicitation Agent, KCC at (i) 1-877-573-3984 (toll free) or 1-310-751-1829 (if international) or by email at HighlandInfo@kccllc.com or (ii) viewing such documents by accessing them online at <https://kccllc.net/HCMLP>. The documents are also available on the Court’s website: www.txnb.uscourts.gov. Please note that a PACER password and login are needed to access documents on the Court’s website.

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Dated: October 15, 2020.

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-and-

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EXHIBITS C/D

***Highland Capital Management, L.P.
Disclaimer For Financial Projections***

This document includes financial projections for July 2020 through December 2022 (the “Projections”) for Highland Capital Management, L.P. (“Company”). These Projections have been prepared by DSI with input from management at the Company. The historical information utilized in these Projections has not been audited or reviewed for accuracy by DSI.

This Memorandum includes certain statements, estimates and forecasts provided by the Company with respect to the Company’s anticipated future performance. These estimates and forecasts contain significant elements of subjective judgment and analysis that may or may not prove to be accurate or correct. There can be no assurance that these statements, estimates and forecasts will be attained and actual outcomes and results may differ materially from what is estimated or forecast herein.

These Projections should not be regarded as a representation of DSI that the projected results will be achieved.

Management may update or supplement these Projections in the future, however, DSI expressly disclaims any obligation to update its report.

These Projections were not prepared with a view toward compliance with published guidelines of the Securities and Exchange Commission or the American Institute of Certified Public Accountants regarding historical financial statements, projections or forecasts.

Highland Capital Management, L.P.
Statement of Assumptions

- A. Plan effective date is December 31, 2020.
- B. All investment assets are sold by December 31, 2021.
- C. All demand notes are collected in the year 2021.
- D. All notes receivable with maturity dates beyond 12/31/2022 are sold in Q4 2022; in the interim interest income and principal payments are collected as they become due.
- E. Fixed assets used in daily business operations are sold in January 2021.
- F. Accrual for employee bonuses as of December 2020 are reversed and not paid.
- G. All Management advisory or shared service contracts are either assumed and assigned or contracts are terminated on their terms by the on effective date.
- H. Post-effective date the reorganized Debtor would employ three contractors, prior HCMLP employees, to help monetize the remaining assets.
- I. Litigation Trustee budget is \$2,000,000.
- J. Unrealized gains or losses are not recorded on a monthly basis; all gains or losses are recorded as realized gains or losses upon sale of asset.
- K. Plan does not provide for payment of interest to Class 7 holders of general unsecured claims, as set forth in the Plan. If holders of general unsecured claims receive 100% of their allowed claims, they would then be entitled to receive interest at the federal judgement rate prior to any funds being available for claims or interest of junior priority.
- L. Plan assumes zero allowed claims for UBS, IFA, the HarbourVest entities collectively, ("HV") and Hunter Mountain Investment Trust ("HM").
- M. Claims amounts listed in Plan vs. Liquidation schedule are subject to change; claim amounts in Class 7 assume \$0 for UBS, IFA, HM and HV.
- N. Class 1,3 and 4 would be paid in full within 30 days of effective date.
- O. Class 5 payout limited to 75% of each individual creditor claim or in the aggregate \$14.5 million.
- P. Class 6 payout limited to 75% of each individual creditor claim or in the aggregate \$3 million.
- Q. See below for class 7 estimated payout schedule; payout is subject to certain assets being monetized by payout date:
 - o By September 30, 2021 - \$50,000,000
 - o By March 31, 2022 – additional \$50,000,000
 - o By June 30, 2022 – additional \$25,000,000
 - o All remaining proceeds are assumed to be paid out on or soon after all remaining assets are monetized.

Highland Capital Management, L.P.
Plan Analysis Vs. Liquidation Analysis
(US \$000's)

	<u>Plan Analysis</u>	<u>Liquidation Analysis</u>
Estimated cash on hand at 12/31/2020	\$ 26,496	\$ 26,496
Estimated proceeds from monetization of assets [1][2]	198,662	154,618
Estimated expenses through final distribution[1][3]	(29,864)	(33,804)
Total estimated \$ available for distribution	<u>195,294</u>	<u>147,309</u>
Less: Claims paid in full		
Administrative claims [4]	(10,533)	(10,533)
Priority Tax/Settled Amount [10]	(1,237)	(1,237)
Class 1 – Jefferies Secured Claim	-	-
Class 2 – Frontier Secured Claim [5]	(5,560)	(5,560)
Class 3 – Priority non-tax claims [10]	(16)	(16)
Class 4 – Retained employee claims	-	-
Class 5 – Convenience claims [6][10]	(13,455)	-
Class 6 – Unpaid employee claims [7]	(2,955)	-
Subtotal	<u>(33,756)</u>	<u>(17,346)</u>
Estimated amount remaining for distribution to general unsecured claims	<u>161,538</u>	<u>129,962</u>
Class 5 – Convenience claims [8]	-	17,940
Class 6 – Unpaid employee claims	-	3,940
Class 7 – General unsecured claims [9]	174,609	174,609
Subtotal	<u>174,609</u>	<u>196,489</u>
% Distribution to general unsecured claims	92.51%	66.14%
Estimated amount remaining for distribution	-	-
Class 8 – Subordinated claims	no distribution	no distribution
Class 9 – Class B/C limited partnership interests	no distribution	no distribution
Class 10 – Class A limited partnership interests	no distribution	no distribution

Footnotes:

- [1] Assumes chapter 7 Trustee will not be able to achieve same sales proceeds as Claimant Trustee Assumes Chapter 7 Trustee engages new professionals to help liquidate assets
- [2] Sale of investment assets, sale of fixed assets, collection of accounts receivable and interest receivable
- [3] Estimated expenses through final distribution exclude non-cash expenses:
 Depreciation of \$462 thousand in 2020
- [4] Represents \$4.7 million in unpaid professional fees and \$4.8 million in timing of payments to vendors
- [5] Frontier note will be capitalized at effective date and the Debtor will pay interest until note is paid-off
- [6] Claims payout limited to 75% of each individual creditor claim or in the aggregate \$14.5 million
- [7] Claims payout limited to 75% of each individual creditor claim or in the aggregate \$3 million
- [8] Includes \$2 million estimate for aggregate contract damage rejections
- [9] Class estimates \$0 allowed claim for the following creditors: IFA, HV, HM and UBS
- [10] Does not include the value of any security interest

Notes:

All claim amounts are estimated as of September 21, 2020 and subject to change

Highland Capital Management, L.P.
Balance Sheet
(US \$000's)

	Forecast --->										
	Actual Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22
Assets											
Cash and Cash Equivalents	14,993	\$ 5,303	\$ 26,496	\$ 2,068	\$ 97,296	\$ 96,801	\$ 112,649	\$ 59,215	\$ 31,760	\$ 29,077	\$ -
Other Current Assets	12,025	14,549	10,497	8,935	7,041	7,317	5,593	6,244	6,897	7,552	-
Investment Assets	320,912	310,060	271,775	268,348	142,751	83,736	56,532	56,532	56,532	56,532	-
Net Fixed Assets	2,979	2,748	2,517	1,347	-	-	-	-	-	-	-
TOTAL ASSETS	\$ 350,909	\$ 332,660	\$ 311,285	\$ 280,698	\$ 247,088	\$ 187,854	\$ 174,774	\$ 121,991	\$ 95,189	\$ 93,161	\$ -
Liabilities											
Post-petition Liabilities	12,833	6,755	10,533	2,394	-	-	-	-	-	-	-
Pre-petition Liabilities	139,803	137,356	-	-	-	-	-	-	-	-	-
Claims	-	-	-	-	-	-	-	-	-	-	-
Priority Tax/Settled Amount [1]	-	-	1,237	-	-	-	-	-	-	-	-
Class 1 – Jefferies Secured Claim	-	-	-	-	-	-	-	-	-	-	-
Class 2 – Frontier Secured Claim	-	-	5,560	5,560	-	-	-	-	-	-	-
Class 3 – Priority Non-Tax Claims [1]	-	-	16	-	-	-	-	-	-	-	-
Class 4 – Retained Employee Claims	-	-	-	-	-	-	-	-	-	-	-
Class 5 – Convenience Claims [1]	-	-	13,455	-	-	-	-	-	-	-	-
Class 6 – Unpaid Employee Claims	-	-	2,955	-	-	-	-	-	-	-	-
Class 7 – General Unsecured Claims	-	-	174,609	174,609	174,609	124,609	124,609	74,609	49,609	49,609	13,071
Class 8 – Subordinated Claims	-	-	-	-	-	-	-	-	-	-	-
Class 9 – Class B/C Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-	-
Class 10 – Class A Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-	-
Claim Payable	139,803	137,356	197,833	180,169	174,609	124,609	124,609	74,609	49,609	49,609	13,071
TOTAL LIABILITIES	\$ 152,637	\$ 144,111	\$ 208,366	\$ 182,563	\$ 174,609	\$ 124,609	\$ 124,609	\$ 74,609	\$ 49,609	\$ 49,609	\$ 13,071
Partners' Capital	198,272	188,548	102,919	98,135	72,479	63,245	50,164	47,381	45,580	43,552	(13,071)
TOTAL LIABILITIES AND PARTNERS' CAPITAL	\$ 350,909	\$ 332,660	\$ 311,285	\$ 280,698	\$ 247,088	\$ 187,854	\$ 174,774	\$ 121,991	\$ 95,189	\$ 93,161	\$ -

[1] Does not include the value of any security interest

Highland Capital Management, L.P.
Profit/Loss
(US \$'000's)

	Actual		Forecast -->				Total 2020	3 month ended Mar 2021	3 month ended Jun 2021	3 month ended Sept 2021	3 month ended Dec 2021	Total 2021
	Jan 2020 to June 2020 Total	Jan 2020 to June 2020 Total	3 month ended Sept 2020	3 month ended Dec 2020	3 month ended Jan 2021	3 month ended Apr 2021						
Revenue												
Management Fees	\$ 10,529	\$ 2,305	\$ 2,087	\$ 2,087	\$ 14,921	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Shared Service Fees	3,691	3,773	3,773	3,773	11,237	-	-	-	-	-	-	-
Other Income	3,001	333	333	333	3,667	-	-	-	-	-	-	-
Total revenue	\$ 17,221	\$ 6,411	\$ 6,193	\$ 6,193	\$ 29,825	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Expenses [1]	13,655	9,059	12,464	12,464	35,179	2,580	1,540	1,634	2,632	8,387	8,387	
Income/(loss) From Operations	\$ 3,566	\$ (2,648)	\$ (6,271)	\$ (6,271)	\$ (5,353)	\$ (2,580)	\$ (1,540)	\$ (1,634)	\$ (2,632)	\$ (8,387)	\$ (8,387)	
Professional Fees	17,522	8,026	7,741	7,741	33,290	1,988	2,988	2,815	1,643	9,433	9,433	
Other Income/(Expenses) [2]	1,546	950	(59,328)	(59,328)	(56,832)	570	573	409	409	1,962	1,962	
Operating Gain/(Loss)	\$ (12,411)	\$ (9,724)	\$ (73,340)	\$ (73,340)	\$ (95,475)	\$ (3,998)	\$ (3,955)	\$ (4,040)	\$ (3,866)	\$ (15,858)	\$ (15,858)	
Realized and Unrealized Gain/(Loss)												
Other Realized Gains/(Loss)	-	-	-	-	-	(688)	522	-	-	(16)	(16)	
Net Realized Gain/(Loss) on Sale of Investment	(28,418)	-	(12,066)	(12,066)	(40,484)	(99)	526	(5,194)	(7,749)	(12,501)	(12,501)	
Net Change in Unrealized Gain/(Loss) of Investments	(29,929)	-	-	-	(29,929)	-	-	-	-	-	-	
Net Realized Gain/(Loss) from Equity Method Investees	-	-	(222)	(222)	(222)	-	(22,749)	-	(1,467)	(24,217)	(24,217)	
Net Change in Unrealized Gain/(Loss) from Equity Method Investees	(80,782)	-	-	-	(80,782)	-	-	-	-	-	-	
Total Realized and Unrealized Gain/(Loss)	\$ (139,129)	\$ -	\$ (12,289)	\$ (12,289)	\$ (151,418)	\$ (787)	\$ (21,701)	\$ (5,194)	\$ (9,215)	\$ (36,857)	\$ (36,857)	
Net Income	\$ (151,540)	\$ (9,724)	\$ (85,629)	\$ (85,629)	\$ (246,893)	\$ (4,785)	\$ (25,655)	\$ (9,234)	\$ (13,081)	\$ (52,755)	\$ (52,755)	

Footnotes:

- [1] Operating expenses include an adjustment in December 2020 to account for expenses that have not been accrued or paid prior to effective date.
- [2] Other income and expenses of \$59.1 million in December 2020 includes:
 - [a] \$71.3 million was expensed in December 2020 to record for the increase of allowed claims.
 - [b] Income of \$11.5 million for the accrued, but unpaid payroll liability related to the Debtor's deferred bonus programs amount written-off.

Highland Capital Management, L.P.
 Profit/Loss
 (US \$'000's)

Forecast ---->						
	3 month ended Mar 2022	3 month ended Jun 2022	3 month ended Sept 2022	3 month ended Dec 2022	Total 2022	Total Plan
Revenue	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Management Fees	-	-	-	-	-	-
Shared Service Fees	-	-	-	-	-	-
Other Income	-	-	-	-	-	-
Total revenue	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Expenses	1,673	693	923	923	4,211	12,598
Income/(loss) From Operations	\$ (1,673)	\$ (693)	\$ (923)	\$ (923)	\$ (4,211)	\$ (12,598)
Professional Fees	1,511	1,511	1,511	1,511	6,045	15,478
Other Income/(Expenses)	401	403	405	155	1,365	3,327
Operating Gain/(Loss)	\$ (2,783)	\$ (1,801)	\$ (2,029)	\$ (2,279)	\$ (8,891)	\$ (24,749)
Realized and Unrealized Gain/(Loss)	-	-	-	(54,344)	(54,344)	(54,510)
Other Realized Gains/(Loss)	-	-	-	-	-	(12,516)
Net Realized Gain/(Loss) on Sale of Investment	-	-	-	-	-	-
Net Change in Unrealized Gain/(Loss) of Investments	-	-	-	-	-	(24,215)
Net Realized Gain/(Loss) from Equity Method Investees	-	-	-	-	-	-
Net Change in Unrealized Gain/(Loss) from Equity Method Investees	-	-	-	-	-	-
Total Realized and Unrealized Gain/(Loss)	\$ -	\$ -	\$ -	\$ (54,344)	\$ (54,344)	\$ (91,241)
Net Income	\$ (2,783)	\$ (1,801)	\$ (2,029)	\$ (56,622)	\$ (63,235)	\$ (115,990)

Highland Capital Management, L.P.
Cash Flow Indirect
(US \$000's)

	Forecast ---->									
	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Net (Loss) Income	(9,724)	(85,629)	(4,785)	(25,655)	(9,234)	(13,081)	(2,783)	(1,801)	(2,029)	(56,622)
Cash Flow from Operating Activity	231	231	231	231	-	-	-	-	-	-
(Increase) / Decrease in Cash	-	12,289	787	21,701	5,194	9,215	-	-	-	54,344
Depreciation	(2,523)	4,052	1,562	1,894	(2,777)	1,725	(651)	(653)	(655)	1,960
Realized (Gain)/ Loss	(8,525)	2,940	(8,139)	(2,394)	-	-	-	-	-	-
(Increase) Decrease in Current Assets	(20,542)	(66,118)	(10,343)	(4,224)	(4,317)	(2,141)	(3,434)	(2,454)	(2,684)	(319)
Increase (Decrease) in Current Liabilities	-	-	-	-	-	-	-	-	-	-
Net Cash Increase / (Decrease) - Operating Activities	10,851	25,996	3,328	103,374	53,821	17,989	-	-	-	7,780
Cash Flow From Investing Activities	10,851	25,996	3,578	105,013	53,821	17,989	-	-	-	7,780
Proceeds from Sale of Fixed Assets	-	-	250	1,639	-	-	-	-	-	-
Proceeds from Investment Assets	-	-	3,328	103,374	53,821	17,989	-	-	-	-
Net Cash Increase / (Decrease) - Investing Activities	-	-	3,578	105,013	53,821	17,989	-	-	-	7,780
Cash Flow from Financing Activities	-	61,314	-	-	-	-	-	-	-	-
Claim Reclass	-	-	(1,237)	-	-	-	-	-	-	-
Priority Tax/Settled Amount	-	-	-	-	-	-	-	-	-	-
Class 1 – Jefferies Secured Claim	-	-	-	-	-	-	-	-	-	-
Class 2 – Frontier Secured Claim	-	-	-	(5,560)	-	-	-	-	-	-
Class 3 – Priority Non-Tax Claims	-	-	(16)	-	-	-	-	-	-	-
Class 4 – Retained Employee Claims	-	-	-	-	-	-	-	-	-	-
Class 5 – Convenience Claims	-	-	(13,455)	-	-	-	-	-	-	-
Class 6 – Unpaid Employee Claims	-	-	(2,955)	-	-	-	(50,000)	(25,000)	-	(36,538)
Class 7 – General Unsecured Claims	-	-	-	-	-	-	-	-	-	-
Class 8 – Subordinated Claims	-	-	-	-	-	-	-	-	-	-
Class 9 – Class B/C Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-
Class 10 – Class A Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-
Net Cash Increase / (Decrease) - Financing Activities	-	61,314	(17,664)	(5,560)	(50,000)	-	(50,000)	(25,000)	-	(36,538)
Net Change in Cash	(9,690)	21,193	(24,429)	95,229	(496)	15,849	(53,434)	(27,454)	(2,684)	(29,077)
Beginning Cash	14,993	5,303	26,496	2,068	97,296	96,801	112,649	59,215	31,760	29,077
Ending Cash	5,303	26,497	2,067	97,297	96,800	112,650	59,215	31,761	29,076	-

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COUNSEL FOR HIGHLAND CLO FUNDING LTD.

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

IN RE:

HIGHLAND CAPITAL MANAGEMENT,
L.P.

DEBTOR

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Chapter 11

Case No. 19-34054-sgj11

**HIGHLAND CLO FUNDING, LTD.’S RESERVATION OF RIGHTS REGARDING
DEBTOR’S MOTION FOR ENTRY OF AN ORDER APPROVING SETTLEMENT WITH
(A) ACIS CAPITAL MANAGEMENT, L.P. AND ACIS CAPITAL MANAGEMENT GP LLC
(CLAIM NO. 23), (B) JOSHUA N. TERRY AND JENNIFER G. TERRY (CLAIM NO. 156),
AND (C) ACIS CAPITAL MANAGEMENT, L.P. (CLAIM NO. 159), AND AUTHORIZING
ACTIONS CONSISTENT THEREWITH**

TO THE HONORABLE STACEY G.C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE:

Highland CLO Funding, Ltd. (“HCLOF” or the “Fund”) files this Reservation of Rights regarding the *Debtor’s Motion for Entry of an Order Approving Settlement with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistently Therewith*, ECF No. 1087 (the “Motion”), the *Declaration of Gregory V. Demo in Support of the Debtor’s Motion for Entry of an Order Approving Settlement*

with (a) Acis Capital Management, L.P. Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistently Therewith (the “Demo Decl.”), Demo Decl. Ex. 1 (the “Settlement”), and Demo Decl. Ex. 2 (the “Release”).¹ The Fund respectfully states as follows:

I. Introduction

The Debtor and Acis have mediated their disputes, but the Settlement does not resolve the pending and threatened claims against the Fund. Acis, apparently, intends to continue its aggressive litigation strategy against the Fund and certain other parties expressly carved out from the Release. The Fund therefore files this Reservation of Rights to dispel any claim that it has provided consent or otherwise agreed to the Settlement, and to reserve all its rights, including all rights and remedies under applicable non-bankruptcy law. The Settlement and the recently proposed Plan may have far-reaching consequences affecting the Fund and other parties’ rights under non-bankruptcy law. The Fund is seeking input from its investors on these issues.

For example, a component of the Settlement that is not even mentioned in the Motion is the requirement (subject to certain conditions) that the Debtor “transfer all of its right, title and interest in Highland HCF Advisor, Ltd., [“HCF Advisor”] whether its ownership is direct or indirect to Acis or its nominee.” Settlement § 1(c). The Settlement provides that this transfer will occur in the future (on the effective date of the Debtor’s plan of reorganization) but only if the Debtor receives legal advice that the transfer is “legally permissible consistent with [the Debtor’s]

¹ For the avoidance of doubt, HCLOF files this Reservation of Rights for the limited purpose set forth herein. HCLOF does not seek relief from the Court given the procedural posture of matters at issue and does not submit to the jurisdiction of the Bankruptcy Court. HCLOF does not consent to the entry of final orders by the Bankruptcy Court with respect to any of the legal or factual questions on which it reserves its rights.

contractual and legal duties” and “would not reasonably subject [the Debtor] to liability.” *Id.* As such, the proposed transfer is prospective in nature and is not before the Court. Nonetheless, the Fund notes that it has not consented to this proposed transfer, or to the undertaking by the Debtor to execute this transfer. Nor is the Fund consenting to be bound by any legal advice received by the Debtor concerning the proposed transfer. The Fund reserves all rights.

Further, the Release requires the parties to “coordinate to cause . . . to be dismissed with prejudice” the Fifth Circuit appeal of Acis’s Plan of Reorganization. Release § 2. The Fund is a party to that appeal and states that it does not consent to a dismissal.

II. Relevant Background

A. Relationship between the Fund, the Debtor, and Acis

The Fund is a Guernsey closed-end investment fund governed by two directors wholly independent of HCM and Acis. It relies on its service providers to perform certain operational tasks. One of these service providers is its portfolio manager, HCF Advisor. Pursuant to sub-advisory and sub-service contracts with HCF Advisor, the Debtor performs portfolio management functions for the Fund. The individuals employed by the Debtor who provide portfolio management services for the Fund include but are not limited to Hunter Covitz, Isaac Leventon, and Jean Paul Sevilla.

Acis serves as portfolio manager to certain collateralized loan obligations (“CLOs”), in which the Fund holds a majority of the subordinated notes. As representatives of the Debtor have testified, Acis has mismanaged the CLOs to the detriment of the subordinated notes. *See, e.g.*, Dkt. No. 18-3078, Aug. 1, 2018 Hr’g Tr. at 121:6–124:8 (Test. of H. Covitz); Dkt. No. 18-3078, Dec. 13, 2018 (AM) Hr’g Tr. at 25:5–27:25. The value of the Fund’s investments in the CLOs has decreased dramatically since August 2018. Pursuant to Acis’s Plan, the Fund is prohibited

from exercising contractual rights that would provide a mechanism for the Fund to replace Acis as manager of the CLOs.

The Fund has also been very materially prejudiced by the acrimonious, multi-front litigation between the Debtor and Acis. First, the Fund opposed four proposed plans in the Acis bankruptcy. The confirmed plan is on appeal to the Fifth Circuit. Second, Acis has sued the Fund in an adversary proceeding pending before this Court, but stayed by the Debtor's automatic stay. Every count of that thirty-five-count complaint that names the Fund is also brought against the Debtor. *See Second Amended Complaint (Including Claim Objections and Objections to Administrative Expense Claims)*, Dkt. No. 18-3078, ECF No. 157. Third, Acis has threatened to file a sanctions motion against the Fund, its former directors, and certain Debtor employees who provide services to the Fund. *See Order Lifting the Automatic Stay to Allow Pursuit of Motion for Order to Show Cause for Violations of Acis Plan Injunction*, Dkt. No. 19-34054, ECF No. 764. Fourth, Acis has sued the Fund's former directors and certain Debtor employees who provide services to the Fund in another adversary proceeding pending before this Court, which has recently been abated. *See Motion to Abate Adversary Proceeding and Pending Deadlines*, Dkt. No. 20-03060, ECF No. 27. Fifth, some individuals employed by the Debtor who provide services to the Fund are also named in yet another lawsuit recently brought by Acis, captioned *Acis Capital Management, L.P. v. Cruciani*, Case No. DC-20-055354, pending in the 162nd District Court of Dallas County Texas.

B. Summary of the Settlement and Release

As relevant to this Reservation of Rights, the Settlement provides for the transfer of the Debtor's interest in HCF Advisor to Acis:

(c) On the effective date of a plan of reorganization proposed by HCMLP and confirmed by the Bankruptcy Court, if HMCLP receives written advice of

nationally recognized external counsel that it is legally permissible consistent with HCMLP's contractual and legal duties to transfer all of its direct and indirect right, title and interest in Highland HCF Advisor, Ltd. to Acis or its nominee and that doing so would not reasonably subject HCMLP to liability, HCMLP shall transfer all of its right, title and interest in Highland HCF Advisor, Ltd., whether its ownership is direct or indirect, to Acis or its nominee, subject at all times to Acis's right to unilaterally reject the transfer in its sole and absolute discretion;

Settlement § 1(c).

The Release does not resolve the pending and threatened litigation involving the Fund. *See* Release § 1(a) ("Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties shall not include . . . Highland CLO Funding, Ltd. . . ."). However, it contains several provisions affecting the Fund. First, it provides that Acis and the Debtor will attempt to cause the dismissal with prejudice of the Fifth Circuit appeal:

Within five days of the Effective Date, each Acis Released Party and HCMLP Released Party, to the extent applicable, will coordinate to cause the Filed Cases, including any appeals of any Filed Cases, to be dismissed with prejudice as to any Acis Released Party or HCMLP Released Party

Release § 2.

Second, the Release provides that Acis's claims pending against certain Debtor employees (referred to as "HCMLP Specified Parties" in the Release), including those employees that provide portfolio management and other services to the Fund, will be released only if those parties take no action that impairs the Settlement:

Notwithstanding anything herein to the contrary, if (A) any HCMLP Specified Party has not executed this Release on or before the Effective Date or (B) any HCMLP Released Party, including any HCMLP Specified Party, (i) sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten any Acis Released Party on or in connection with any HCMLP Released Claim or any other claim or cause of action arising prior to the date of this Release, (ii) takes any action that, in HCMLP's reasonable judgment, impairs or harms the value of HCMLP, its estate, and its assets; or (iii) in HCMLP's reasonable judgment fails to use commercially reasonable efforts to support confirmation of the Plan and/or the monetization of HCMLP's assets at their maximum value, then (a) such HCMLP Released Party (and only such HCMLP

Released Party) will be deemed to have waived (x) the release and all other protections set forth in Section 1a hereof and will have no further rights, duties, or protections under this Release and (y) any releases set forth in the Plan, (b) the Acis Released Parties, as applicable, may, in their discretion, assert any and all Acis Released Claims against such HCMLP Released Party (and only such HCMLP Released Party), and (c) any statutes of limitation or other similar defenses are tolled against such HCMLP Released Party (and only such HCMLP Released Party) from the execution of this Release until ninety (90) days after the Acis Released Parties receive actual written notice of any violation of this Section 1d. For the avoidance of doubt, by signing this Release each of the HCMLP Specified Parties is acknowledging and agreeing, without limitation, to the terms of this Section 1.d and the tolling agreement set forth herein.

Id. § 1(d).

III. Reservation of Rights

A. Applicable law and the contracts governing the relationship between the Debtor and the Fund bear upon the proposed transfer of HCF Advisor.

By the express terms of the Settlement, the proposed transfer of HCF Advisor will occur only upon the following conditions: (1) the occurrence of the effective date of a plan of reorganization proposed by the Debtor and confirmed by the Court; and (2) the Debtor “receives written advice of nationally recognized external counsel that [i] it is legally permissible consistent with [the Debtor’s] contractual and legal duties” to effectuate the transfer and [ii] “doing so would not reasonably subject [the Debtor] to liability.” Therefore, the legality of this potential transfer is not currently before the Court, and the Court’s approval of the Settlement under Rule 9019 does not insulate the transfer from later legal challenge. *See Van Curen v. Escamilla (In re Vec Farms, LLC)*, 395 B.R. 674, 683 (Bankr. N.D. Cal. 2008) (“[A]pproval by court does not immunize [a] clause in settlement agreement that is otherwise illegal.” (citation omitted)).

Without limitation, the Fund observes that multiple provisions of the Fund’s governing documents and third-party contracts, as well as provisions of applicable non-bankruptcy law, including the Investment Advisers Act, bear upon the legality of, and the consequences flowing

from, the transfer of ownership of HCF Advisor without the Fund's consent. Presumably these and other issues are to be addressed in the legal opinion anticipated by the Settlement. The Fund has never been consulted on any of these issues and does not consent to, or agree in any way to be bound by, any determination by the Debtor or its legal advisors that it can properly transfer ownership of the Fund's portfolio manager without its consent. The Fund expressly reserves its right to challenge the legality of this transfer, should it occur, on any and all available legal or equitable grounds, and/or to exercise any remedy available to the Fund as a result of the transfer should it occur without its consent.

B. The Fund does not consent to dismissal of its Fifth Circuit appeal.

The Release provides that Acis and the Debtor will attempt to cause the dismissal with prejudice of the Fifth Circuit appeal of the Acis plan of reorganization. Release § 2. The Fund is also a party to that appeal. The Fund recognizes that the Release contemplates dismissal efforts with the Fifth Circuit and that this Court is not being asked to, nor could it, take action on this contemplated future event. Nonetheless, to avoid any inference that the Fund consents to these futures events, the Fund states that it does not consent to dismissal of its appeal.

IV. Conclusion

The Fund therefore reserves all rights to challenge potential transactions or actions described in the Settlement and Release, should those events come to pass, and to pursue any rights and remedies available to it if these events occur without its consent.

Dated: October 16, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served electronically by the Court's PACER system on October 16, 2020.

/s/ Mark M. Maloney

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

In re:	)	Chapter 11
)	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	)	Case No. 19-34054-sgj11
)	
Debtor.	)	Re: Docket Nos. 1089, 1190
)	

**DEBTOR'S REPLY IN SUPPORT OF DEBTOR'S MOTION FOR ENTRY OF AN
ORDER APPROVING SETTLEMENTS WITH (A) THE REDEEMER COMMITTEE
OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72), AND (B) THE
HIGHLAND CRUSADER FUNDS (CLAIM NO. 81), AND AUTHORIZING
ACTIONS CONSISTENT THEREWITH**

¹ 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.

The above-captioned debtor and debtor-in-possession (the “Debtor”) hereby submits this reply (the “Reply”) in support of its *Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Funds (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* [Docket No. 1089] (the “Motion”).² In further support of the Motion, the Debtor respectfully states as follows:

PRELIMINARY STATEMENT

1. The Motion fully and finally resolves the Debtor’s extensive prepetition disputes with both the Redeemer Committee and the Crusader Funds. The facts underlying these disputes are well-known to this Court and resulted in the Redeemer Committee securing a prepetition Arbitration Award against the Debtor in the amount of \$190,824,557. That Award, and the Delaware Chancery Court’s imminent entry of judgement confirming the Arbitration Award, were the primary drivers for the Debtor’s bankruptcy filing in October 2019.

2. Through the Motion, the Debtor seeks to resolve the Redeemer Committee’s and the Crusader Funds’ claims by, among other things:

- Settling the Redeemer Committee’s \$190 million general unsecured, non-priority claim for \$136,696,610;
- Settling the Highland Crusader Funds’ \$23,483,446 general unsecured, non-priority claim for \$50,000;
- Cancelling certain interests in the Crusader Funds that the arbitration Panel determined were wrongfully acquired;
- Providing for the parties’ cooperation in the marketing and monetization of Cornerstone and/or Cornerstone’s assets pursuant to an agreed-upon schedule;

² All capitalized terms used but not defined herein have the meanings given to them in the Motion.

- Waiving the Debtor’s right to certain deferred fees in consideration for a reduction in the Redeemer Committee’s allowed claim; and
- Providing for the exchange of general releases, as set forth in the Settlement Agreement.

The Motion thus fully and finally resolves one of the Debtor’s largest claims filed by the Debtor’s most significant creditor.

3. UBS Securities LLC and UBS AG, London Branch (collectively, “UBS”) lodged the only objection to the Motion (the “Objection”).³ The UBS Objection raises four primary objections to the Motion:

- The Debtor’s waiver of a portion of the Deferred Fees is inappropriate as the Debtor would be entitled to 100% of such fees if it simply waited until the Crusader Funds were wound down;
- The Debtor has no basis to settle with either the Redeemer Committee or the Crusader Funds because the Arbitration Award is unenforceable and should be challenged by the Debtor in the Delaware Chancery Court;
- The Debtor significantly undervalues the Cornerstone Shares held by the Crusader Funds; and
- The Motion is not in the best interests of the Debtor’s creditors because it is not in the best interests of UBS.

For the reasons set forth below, and as the evidence will demonstrate at trial, UBS’s objections are without merit and should be overruled, and the Court should grant the Motion in all respects.

REPLY

I. The Deferred Fees

4. As this Court knows, the Debtor previously managed the Crusader Funds and,

³ See *Objection to the Debtor’s Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81)* [Docket No. 1190].

subject to the scheme instituted in Bermuda, was potentially entitled to receive certain deferred fees from the Crusader Funds upon completion of their liquidation. However, instead of waiting, the Debtor prematurely paid itself and impermissibly took \$32,313,000 from the Crusader Funds. Under the Arbitration Award, the Debtor was required to pay back such fees plus interest. Although required to return the fees, the Debtor contended that it would ultimately still be entitled to such fees upon the Crusader Funds' liquidation. *See* Motion ¶¶ 24-27. That issue was not resolved in the Arbitration Award.

5. In its Objection, UBS challenges the Debtor's compromise of the Deferred Fee whereby it has accepted a reduction in the Arbitration Award of \$21,592,000 rather than holding out for the Debtor retaining the full Deferred Fees of \$32,313,000 that it took in 2016. According to UBS, the proposed compromise is improper because the Debtor is indisputably entitled to receive 100% of the Deferred Fees upon the completion of the Crusader Funds' liquidation; consequently, the proposed treatment of the Deferred Fees is unjustified. UBS's argument, however, misses the mark.

6. Even if the Debtor were indisputably entitled to recover the Deferred Fees upon the completion of the Crusader Funds' liquidation (which is heavily contested), under the Arbitration Award, the Debtor would (a) be required to re-pay the Redeemer Committee the approximately \$32 million found to have been improperly taken by the Debtor, plus interest,⁴ and (b) wait for some future date when it would assert a claim to be paid the Deferred Fees.

⁴ If the Motion is denied, a new round of litigation will likely ensue over the issue of setoffs: If general unsecured creditors receive less than the value of their allowed claims, can the Debtor "repay" the Deferred Fees found to have been improperly taken with "bankruptcy dollars", or will the Debtor be required to "repay" the Deferred Fees in "hundred cent" dollars? The proposed settlement eliminates the cost and risk of this litigation as well.

7. But the timing of the Crusader Funds' complete liquidation is not in the Debtor's control,⁵ and neither the Debtor nor UBS can predict when it will occur. Indeed, to the extent the Crusader Funds hold an allowed claim, the Crusader Funds' liquidation cannot be completed—and therefore the Debtor cannot assert a claim to the Deferred Fee—until they receive all of their distributions on account of that claim, a process that is likely to take many years.⁶

8. More important than the issues of delay and setoff litigation that UBS ignores, UBS's contention that the Debtor would face no litigation risk in trying to recover the Deferred Fees is simply wrong. *See* Motion ¶ 26. The Redeemer Committee and the Crusader Funds have vigorously asserted that they will rely on the "faithless servant" defense to contest any future claim for payment of the full Deferred Fees. In response, the Debtor took advice from counsel, considered the Panel's highly critical findings and statements concerning the Debtor's conduct, and concluded, in the exercise of its business judgment, that the Debtor would face meaningful costs and risks if it attempted to recover the full Deferred Fees at some future point.

9. The Debtor's settlement with respect to the Deferred Fees is thus justified: In exchange for the benefit of receiving immediate credit for two-thirds of the value of the Deferred Fees that the Debtor took in 2016, the Debtor will avoid (a) litigation over setoff issues; (b) a lengthy delay before it can even assert the right to recover the full Deferred Fees; (c) the cost of

⁵ The only Crusader Fund asset potentially in the Debtor's control is Cornerstone. Cornerstone, however, is illiquid, and there can be no guarantee of when (or if) it will be sold.

⁶ The UCC (and/or the trust contemplated under the Debtor's proposed plan of reorganization) is expected to prosecute Estate Claims, including claims that may be asserted against James Dondero and certain entities owned or controlled by him. As UBS should know from its own nearly decade-long experience, and as the Court should consider, litigation with Mr. Dondero is not often quickly resolved. But until these claims are resolved, the Crusader Funds' liquidation cannot be completed because they will continue to have an interest in the Estate Claims and any distributions made on account of such claims.

litigating the Redeemer Committee's and the Crusader Funds' "faithless servant" defense;⁷ and (d) the risk that the defense may be successful, leaving the Debtor with nothing on account of the Deferred Fees.

II. Challenging the Arbitration Award

10. UBS argues that the Debtor should challenge the Arbitration Award and resurrect its prepetition motion to vacate that was based on certain alleged procedural irregularities. In essence, UBS wants the Debtor to rewind the clock to October 2019, return to the Delaware Chancery Court, and continue its litigation with the Redeemer Committee rather than settling it. Indeed, UBS encourages the Debtor to rely on the arguments tendered by the Debtor's prepetition management team.⁸ This argument is tone-deaf. This Court has consistently encouraged the Debtor to stop the litigation and change its litigious culture. UBS is encouraging the opposite and asking the Debtor to return to state court to prosecute litigation that was definitively resolved by three highly-qualified arbitrators.

11. From the Debtor's perspective, the settlement represents a far better alternative, one that is clearly in the paramount interest of creditors.

12. First, for the reasons set forth in the Motion (*see* Motion ¶¶ 43, 48-58), the Debtor has concluded that it is unlikely to succeed in the motion to partially vacate the Arbitration Award. It is axiomatic that courts are reluctant to overturn arbitration awards because public

⁷ The cost of litigating the "faithless servant" defense is likely to be considerable because it will require a fact-intensive inquiry into the Debtor's conduct. In addition, if the litigation takes place five or ten years from now, the Debtor may not be well-positioned because certain witnesses may no longer be available; some may refuse to cooperate; and those that choose to cooperate may have faded memories.

⁸ UBS asserts that adjudicating the motion to vacate in Delaware Chancery Court will be quick, but its only justification for that statement is that the Debtor has already fully briefed the motion and it is currently pending. That, however, is no guarantee, and it does not account for COVID-related delays, the availability of the Court, any appeals of the motion, or the time spent having to re-litigate matters that have already been decided.

policy favors the pursuit of agreed-upon alternative dispute mechanisms. The Debtor believes that this institutional reluctance would be heightened here because (a) the arbitration took place over an extended period, with substantial discovery and motion practice; (b) the Arbitration Award was rendered by a “blue ribbon” Panel; (c) the evidentiary hearing spanned nine (9) days; (d) eleven fact witnesses and four (4) expert witnesses testified; (e) the Arbitration Award addressed every claim and argument asserted by the parties, and the Panel resolved each with detailed legal and factual findings and credibility determinations; and (f) many of those findings and credibility determinations were highly critical of the Debtor and its witnesses, making the Debtor a particularly unsympathetic litigant under the circumstances. *See* Motion ¶ 43.

13. In that poorly-positioned state, the Debtor believes the Chancery Court is very likely to adopt the Panel’s detailed and well-reasoned decision on the very issues that UBS urges the Debtor to renew. *See* Motion ¶¶ 49-51, 53, 57. Based on the foregoing, including the Panel’s consideration of the issues, the Debtor has concluded that it is unlikely to succeed in the motion to partially vacate the Arbitration Award.

14. In addition to second-guessing the Panel and the Debtor on the merits, UBS ignores the fact that the Debtor would lose the benefit of its current bargain with the Redeemer Committee and the Crusader Funds if its high-risk strategy is pursued. For example, in the pursuit of UBS’s risk-adjusted benefit of \$18.5 million (UBS Objection ¶ 40), the Debtor will certainly lose the compromise concerning the \$21.6 million credit it will receive on account of the Deferred Fee, and it will be left to spend money litigating setoff issues and the “faithless servant” defense at some future time with all of the risk that entails. The Debtor does not believe that is in the paramount interest of creditors.

15. In sum, the Debtor does not believe it has a meaningful chance of succeeding in the Chancery Court, and the Debtor has concluded in the sound exercise of its business judgment that the proposed settlement constitutes a far superior alternative, the benefits of which would be lost if it continued to pursue what is likely to be fruitless litigation.

III. The Value of the Cornerstone Shares

16. UBS argues that the Debtor is giving up its interest in the Cornerstone Shares too cheap and, by doing so, providing the Redeemer Committee with a windfall. To make this argument, UBS challenges Houlihan Lokey's valuation of the Cornerstone Shares and seeks to impose the views of its own expert.⁹

17. A few things about Houlihan Lokey and the work that it does for the Debtor should be noted:

- The group at Houlihan Lokey that provides valuations to the Debtor, including the valuation of Cornerstone, is Houlihan Lokey's portfolio valuation and fund advisory services. This group specializes in valuing hard-to-value, Level 3 assets for asset managers and is routinely recognized as the premier provider of such services;
- In many cases, the valuations performed by Houlihan Lokey form the basis for the "net asset value" or "NAV" used by asset managers, including the Debtor, to value the funds managed by those asset managers. That NAV is then used to pay out redeeming interest holders and to calculate the management fees payable to the manager;
- Asset managers routinely rely on Houlihan Lokey to provide the valuations that they disclose to investors and to their auditors; and
- Throughout the Debtor's bankruptcy, Houlihan Lokey's valuations have been used, in certain instances, to support the values included in the Debtor's monthly operating reports and similar financial disclosures, including those provided to the Committee in this case. They have never before been challenged.

⁹ The Debtor reserves the right to challenge the admission into evidence of any opinions offered by W. Kevin Moentmann, including under *Daubert* and its progeny, Federal Rule of Evidence 702, or otherwise. The Debtor is scheduled to depose Mr. Moentmann on Monday afternoon, October 19, 2020, and further reserves the right to supplement the arguments set forth herein based on the testimony adduced during the deposition.

UBS, however, is now attacking Houlihan Lokey's valuation of Cornerstone and seeking to impose its own view. Although UBS may have a different opinion as to the value of the Cornerstone Shares, it cannot argue that the Debtor's reliance on Houlihan Lokey's valuation was unreasonable or an abuse of the Debtor's business judgment.

IV. Best Interests of Creditors

18. Finally, UBS argues that the settlements with the Redeemer Committee and the Crusader Funds are not in the best interests of *all* of the Debtor's creditors. UBS makes this argument despite the fact that UBS is the *only* creditor or party-in-interest that has objected to the Motion. Based on the UBS Objection, it seems UBS believes that its interests should supplant the interest of all other creditors and parties-in-interest because UBS is "a significant unsecured creditor affected by the Proposed Settlement. . . ." (UBS Obj ¶ 47). Admittedly, UBS has filed a \$1 billion-plus proof of claim against the Debtor's estate. That does not, however, make UBS a "significant creditor."

19. Both the Debtor and the Redeemer Committee believe that UBS's claim is, at best, far small than UBS asserts. Both the Debtor and the Redeemer Committee have provided support for their positions in their recently filed motions for summary judgment.¹⁰ UBS should not be able to use its disputed, contingent, and unliquidated proof of claim to upset the Debtor's settlement with one of its actual "significant creditors" or create leverage in the fight over the

¹⁰ See *Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch* [Docket No. 1180]; *Debtor's Opening Brief in Support of Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch* [Docket No. 1181]; *Redeemer Committee of the Highland Crusader Fund and the Crusaders Funds' Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS AG, London Branch and UBS Securities LLC* [Docket No. 1183]; and *Redeemer Committee of the Highland Crusader Fund and the Crusaders Funds' Brief in Support of Motion for Partial Summary Judgment and Joinder in the Debtor's Motion for Partial Summary Judgment on Proof of Claim No. 190 and 191 of UBS AG, London Branch and UBS Securities LLC* [Docket No. 1186].

allowance of its claim. The paramount interest of the Debtor's actual creditors should take precedence over the parochial interest of one disputed creditor.

20. However, even if UBS is found to have a claim against the Debtor, that claim would be a general unsecured claim and similarly situated with all other general unsecured claims in this case, including claims arising from prepetition litigation with the Debtor. UBS's preferences should not supersede those of all of the other similarly situated creditors that are not opposing the Motion.

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WHEREFORE, for the reasons set forth above and in the Motion, the Debtor respectfully requests that the Court grant the Motion.

Dated: October 19, 2020.

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

In Re: HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-sgj11
UBS Securities LLC, et al	§	
Appellant	§	
vs.	§	
Highland Capital Management, L.P.	§	3:20-CV-03408-G
Appellee	§	

[1273] Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # [1089](#)) Entered on 10/23/2020.

**APPELLANT RECORD
VOLUME 4**

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

-----X
In re: : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

INDEX

**APPELLANTS' AMENDED STATEMENT OF ISSUE AND
DESIGNATION OF RECORD ON APPEAL**

¹ The last four digits of the Debtor's taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Bankruptcy Court, Suite 700, Dallas, TX 75201.

Pursuant to instructions by the Clerk of Court (*see* Docket No. 1458), Appellants UBS Securities LLC and UBS AG, London Branch (together “UBS” or “Appellants”) submit this amended statement of issue and designation of record on appeal in connection with their appeal of the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* (Bankruptcy Case No. 19-34054-sgj11) [Docket No. 1273], dated October 22, 2020 and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020.

I. STATEMENT OF ISSUE TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court err as a matter of law by approving the Debtor’s claim compromise as fair, equitable, and in the best interest of the estate under Federal Rule of Bankruptcy Procedure 9019?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

- Vol. 1*
1. The Notice of Appeal:
- 000001* a. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1339);
- 000010* b. Amended Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1369).
2. The Judgment, Order, or Decree Appealed from:
- 000019* a. Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith (Dkt. 1273).
3. Any Opinion, Findings of Fact, and Conclusions of Law of the Bankruptcy Court:

To the extent included in or underlying the documents identified in part II.5 herein.

- 000021* 4. The Docket Sheet for Bankruptcy Case No. 19-34054-sgj11.

5. Documents listed below (as described in the Docket Sheet for Bankruptcy Case No.

19-34054-sgj11):

<i>Vol. 2</i>	Date Filed	Docket No.	Description/Docket Text
<i>000301</i>	12/4/2019	1	(2 pgs) Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
<i>000303</i>	12/27/2019	281	(100 pgs; 4 docs) Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) (Hayward, Melissa)
<i>000403</i>	1/9/2020	339	(5 pgs) Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document # 281) Entered on 1/9/2020. (Okafor, M.)
<i>000408</i>	3/2/2020	488	(18 pgs) Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # 421) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
<i>000426</i>	9/21/2020	1079	(61 pgs) Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)944 Chapter 11 plan). (Annable, Zachery)
<i>Vol. 3</i>	9/21/2020	1080	(155 pgs; 3 docs) Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)(Annable, Zachery)
<i>000487</i>	9/23/2020	1089	(26 pgs; 2 docs) Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A--Proposed Order) (Annable, Zachery)
<i>000642</i>	10/15/2020	1173	(11 pgs; 2 docs) Notice (Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1080 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)). (Attachments: # 1 Exhibit C/D to
<i>000668</i>			

Date Filed	Docket No.	Description/Docket Text
		Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/16/2020	1191	(8 pgs) Response opposed to (related document(s): 1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/19/2020	1220	(11 pgs) Reply to (related document(s): 1190 Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/28/2020	1303	(2 pgs) Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 & #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)
10/30/2020	1315	(3 pgs) Order directing UBS' Offer of Proof (RE: related document(s)1089 Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.) ²
6/8/2020	719	SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
6/8/2020	720	SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)

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² This designation includes the underlying documents that UBS submitted to the Bankruptcy Court in hard copy pursuant to this ruling.

	Date Filed	Docket No.	Description/Docket Text
Vol. 4 000823	6/8/2020	721	SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
000824 Thru Vol. 5	8/7/2020	933	(431 pgs; 23 docs) Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page - to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page - to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page - to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page - to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page - to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page - to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page - to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page - to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page - to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page - to be filed under seal upon order from Court)) (Platt, Mark)
Vol. 6 001255	8/26/2020	996	(34 pgs) Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund - Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) (sealed exhibits)
001289	9/23/2020	1090	(94 pgs; 7 docs) Declaration re: (Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) (Annable, Zachery)
001383	10/5/2020	1127	SEALED document regarding: Exhibit B--Cornerstone Monetization Schedule per court order filed by Debtor

Date Filed	Docket No.	Description/Docket Text
		Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1128	SEALED document regarding: Exhibit 2 - Partial Final Award dated March 6, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.).
10/5/2020	1129	SEALED document regarding: Exhibit 3--Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1130	SEALED document regarding: Exhibit 4--Final Award dated April 29, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/16/2020	1190	(42 pgs; 2 docs) Objection to (related document(s): 1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # 1 A-C) (Sosland, Martin)
10/16/2020	1192	(36 pgs; 3 docs) Declaration re: W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)1190 Objection). (Attachments: # 1 Exhibit 1-6 # 2 Attachments A-C) (Sosland, Martin)
7/10/2020	817	Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 812 Hearing held on 7/8/2020. (RE: related document(s)737 Motion to extend or limit the exclusivity period (RE: related document(s)668 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M.

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Date Filed	Docket No.	Description/Docket Text
		Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.), 813 Hearing held on 7/8/2020. (RE: related document(s)747 Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)459 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
8/26/2020	998	Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s)771 Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)

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<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
10/23/2020	1271	Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1256 Hearing held on 10/20/2020. (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), 1257 Hearing held on 10/20/2020. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)

Respectfully submitted,

DATED this 25th day of November 2020.

LATHAM & WATKINS LLP

By /s/ Sarah Tomkowiak
Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
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BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice M. Carson (TX Bar No. 24074006)
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candice.carson@butlersnow.com

*Counsel for UBS Securities LLC and UBS
AG, London Branch*

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Appellants' Amended Statement of Issue and Designation of Record on Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 25, 2020.

/s/ Martin Sosland

BTXN 208 (rev. 07/09)

IN RE: Highland Capital Management, L.P.
Debtor's Motion To Compromise Controversy with (A) The Redeemer Committee of the Highland Crusader Fund (Claim 72 and (B) The Highland Crusader Funds (Claim 81), and Authorizing Actions Consistent Therewith

Case # 19-34054-sgj11

DEBTOR

TYPE OF HEARING

Debtor and Debtor-in-Possession / Redeemer Committee

VS

UBS Securities LLC and UBS AG, London Branch

PLAINTIFF / MOVANT

DEFENDANT / RESPONDENT

John A. Morris / Terri Mascherin

Sarah Tomkowiak and Andrew Clubok

ATTORNEY

ATTORNEY

EXHIBITS

SEE EXHIBIT LIST

Exhibit #1 – POC No. #72 of Highland Crusader Fund

Exhibit #2 – POC No. #81 of Redeemer Committee of the Highland Crusader Fund

Exhibit #3 – Declaration of John A. Morris

Exhibit #4 – Order Granting Debtor's Motion For entry of an Order Authorizing Filing Under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion For Entry of an Order Approving Settlement

October 20, 2020

Michael Edmond

Stacey G. Jernigan

REPORTED BY

JUDGE PRESIDING

000698

HEARING
DATE

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
(State)

Case number 19-34054

**Official Form 410
Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor? Redeemer Committee Highland Crusader Fund
Name of the current creditor (the person or entity to be paid for this claim)
Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else?
 No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?
Where should notices to the creditor be sent? See summary page
Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)
Contact phone _____ Contact phone _____
Contact email TMascherin@jenner.com Contact email _____
Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. Does this claim amend one already filed?
 No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?
 No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

See attached rider

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/03/2020
MM / DD / YYYY

/s/Terri L. Mascherin
Signature

Print the name of the person who is completing and signing this claim:

Name Terri L. Mascherin
First name Middle name Last name

Title Partner

Company Jenner and Block LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (877) 573-3984 | International (310) 751-1829

Debtor: 19-34054 - Highland Capital Management, L.P. District: Northern District of Texas, Dallas Division		
Creditor: Redeemer Committee Highland Crusader Fund c/o Terri Mascherin, Esq. Jenner and Block 353 N. Clark Street Chicago, IL, 60654-3456 Phone: Phone 2: Fax: Email: TMascherin@jenner.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: See attached rider	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: See attached rider	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Terri L. Mascherin on 03-Apr-2020 1:51:56 p.m. Eastern Time Title: Partner Company: Jenner and Block LLP		

ID: 24788159

PIN: wZvUm7fb

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the Northern District of Texas, Dallas Division

Case number 19-34054-sgj11

**Official Form 410
Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both, 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1: Identify the Claim NameID: 13930498

1. **Who is the current creditor?** Redeemer Cmmttee Highland Crusader Fund
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?** **Where should notices to the creditor be sent?** **Where should payments to the creditor be sent? (if different)**

Redeemer Cmmttee Highland Crusader Fund
c/o Terri Mascherin, Esq.
Jenner & Block
353 N. Clark Street
Chicago, IL 60654-3456

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Name _____
 Number _____ Street _____
 City _____ State _____ ZIP Code _____
 Address _____
 Country _____
 Contact phone _____
 Contact email _____
 Contact phone _____
 Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.
 See attached rider.

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.


I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04 / 02 / 2020
MM / DD / YYYY


Signature

Print the name of the person who is completing and signing this claim:

Name	Terri	L.	Mascherin
	First name	Middle name	Last name
Title	Partner		
Company	Jenner & Block LLP		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	353 N. Clark Street		
	Number	Street	
	Chicago	IL	60654-3456 USA
	City	State	ZIP Code Country
Contact phone	(312) 222-9350	Email	tmascherin@jenner.com

**RIDER TO THE PROOFS OF CLAIM OF THE REDEEMER
COMMITTEE OF THE HIGHLAND CRUSADER FUND**

This Rider is part of the proof of claim (the “**Proof of Claim**”) filed by the Redeemer Committee of the Highland Crusader Fund (the “**Redeemer Committee**”) against Highland Capital Management, L.P. (“**HCM**” or the “**Debtor**”).

On March 6, 2019, a panel of arbitrators issued a Partial Final Award (the “**March Award**”) in favor of the Redeemer Committee against HCM. On April 29, 2019, the panel issued a Final Award (the “**Final Award**,” and together with the March Award, the “**Arbitration Award**”) in favor of the Redeemer Committee against HCM.¹ The Arbitration Award is subject to the Federal Arbitration Act and The Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Redeemer Committee timely moved to confirm the Award in the Delaware Chancery Court. HCM moved for partial vacatur of the Arbitration Award in June 2019. The time period to move to vacate the Arbitration Award expired prior to the Petition Date (as defined below). All capitalized terms that are not defined herein have the meanings given to such terms in the Arbitration Award.

The Redeemer Committee files this Proof of Claim out of an abundance of caution. The Arbitration Award is an executory contract under section 365 of the Bankruptcy Code. HCM has not yet moved to assume or reject the contract. Accordingly, the deadline to file a proof of claim remains undetermined. By filing the Proof of Claim, the Redeemer Committee does not concede that the amounts awarded under the Arbitration Award are prepetition claims or that it is required to file a proof of claim to be entitled to the amounts described herein. The Redeemer Committee reserves all rights to amend or modify this Proof of Claim in any respect, including to assert other or additional claims, or for the purpose of fixing or liquidating any contingent or unliquidated claims. This Proof of Claim is without prejudice to any other rights the Redeemer Committee may have against the Debtor, its officers, employees, successors, or assigns.

This Proof of Claim includes the following components, and each is based on the Arbitration Award (together, the “**Claim**”):

1. **Damage Claim.** The Redeemer Committee asserts a liquidated claim for at least \$190,824,557 plus interest that is accruing beginning as of October 16, 2019, the date that HCM filed its bankruptcy case (the “**Petition Date**”). As set forth in the Final Award, the separate components of the Damage Claim are as follows, and the amounts set forth below are as of the Petition Date, including prepetition interest awarded under the Arbitration Award accrued to the Petition Date:
 - a. Deferred Fee Claim: \$43,105,395 (Final Award ¶ F.a.ii.1)
 - b. Distribution Fee Claim: \$22,922,608 (Final Award ¶ F.a.ii.2)

¹ Copies of the Arbitral Award have previously been provided the Debtor, the Official Committee of Unsecured Creditors, and the Office of the United States Trustee. The Redeemer Committee reserves the right to file a copy of the Arbitral Award with the Bankruptcy Court.

- c. Taking of Plan Claims: \$3,277,991 (Final Award ¶ F.a.v)
- d. CLO Trades Claim: \$685,195 (Final Award ¶ F.a.vi)
- e. Credit Suisse Claim: \$3,660,130 (Final Award ¶ F.a.vii)
- f. UBS Claim: \$2,600,968 (Final Award ¶ F.a.viii)
- g. Barclays Claim: \$30,811,366 (Final Award ¶ F.a.ix)
- h. Legal Fees, Costs, and Expenses: \$11,351,850 (Final Award ¶ F.a.xi)
- i. Administrative Fees: \$514,164 (Final Award ¶ F.a.xii)
- j. Cornerstone Award: \$71,894,891 (Final Award ¶ F.a.ix)

The Redeemer Committee also asserts an unliquidated claim for post-petition interest, attorneys' fees, costs, and other expenses that continue to accrue in connection with the Damage Claim.

2. **Cancellation of Limited Partnership Interests.** The Final Award provides, in relevant part, for the cancellation of the limited partnership interests in the Crusader Fund that are (i) held by HCM and Charitable DAF Fund, L.P. that are identified in RC411, and (ii) held by Eames, Ltd. (Final Award ¶¶ F.a.v and F.a.x). The Final Award provides for HCM to transfer, or take all necessary steps to cause the transfer of, such interests to the Redeemer Committee for the benefit of the Crusader Fund. The Final Award also provides that the Redeemer Committee has the independent right to cause the Crusader Fund to cancel such limited partnership interests. The Redeemer Committee reserves the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cancel such limited partnership interests in accordance with the Final Award. The Redeemer Committee asserts a claim in an unliquidated amount in the event all such limited partnership interests are not cancelled in accordance with the Final Award.
3. **Deferred Fee Account.** The Arbitration Award granted the Redeemer Committee's request for a declaratory judgment with respect to the immediate distribution of the Deferred Fee Account, which the Crusader Fund continues to hold, and ordered the payment of the funds in such account to the Redeemer Committee for disbursement to the Consenting Compulsory Redeemers (March Award ¶ VII.D; Final Award ¶ F.a). The Redeemer Committee reserves the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cause the distribution of the funds held in the Deferred Fee Account in accordance with the Arbitration Award. The Redeemer Committee asserts a claim in an unliquidated amount in the event all such funds are not distributed in accordance with the Arbitration Award.

The Redeemer Committee expressly reserves all of its procedural and substantive defenses and rights with respect to any claim that may be asserted against the Redeemer Committee by the Debtor, including any rights of setoff or recoupment.

The filing of this Claim shall not constitute: (i) an admission of liability by the Redeemer Committee to any party; (ii) a waiver or release of the Redeemer Committee's rights against any person, entity, or property; (iii) a consent by the Redeemer Committee to the jurisdiction of the Bankruptcy Court with respect to the subject matter of this Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases or otherwise involving the Redeemer Committee; (iv) a waiver of the right to move to withdraw the reference to the subject matter of this Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant; (v) a waiver of the right to have final orders entered only after *de novo* review by a United States Judge; (vi) its right to trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases; (vii) its right to arbitration under the Plan and Scheme; (viii) an election of remedies; or (ix) any other rights, claims, actions, defenses, setoffs, or recoupments to which it is or may be entitled under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly reserved.

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
(State)

Case number 19-34054

**Official Form 410
Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** See summary page
Name of the current creditor (the person or entity to be paid for this claim)
Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
<u>See summary page</u>	<u>Alvarez and Marsal CRF Management, LLC 2029 Century Park East, Suite 2060 Los Angeles, CA 90067, United States</u>

Contact phone 212-351-3969 Contact phone 310-975-2600
Contact email mrosenthal@gibsondunn.com Contact email svarner@alvarezandmarsal.com

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. How much is the claim? \$ see attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

See attached rider

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: See attached rider



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/06/2020
MM / DD / YYYY

/s/Michael A. Rosenthal
Signature

Print the name of the person who is completing and signing this claim:

Name Michael A. Rosenthal
First name Middle name Last name

Title Counsel to Alvarez and Marsal CRF Management, LLC, as Investment Manager

Company Gibson, Dunn and Crutcher LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (877) 573-3984 | International (310) 751-1829

Debtor: 19-34054 - Highland Capital Management, L.P. District: Northern District of Texas, Dallas Division		
Creditor: Highland Crusader Offshore Partners, L.P., et al., see rider for all names of creditors Michael A. Rosenthal, Gibson, Dunn and Crutcher LLP 200 Park Avenue New York, NY, 10166 United States Phone: 212-351-3969 Phone 2: Fax: Email: mrosenthal@gibsondunn.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Disbursement/Notice Parties: Alvarez and Marsal CRF Management, LLC 2029 Century Park East, Suite 2060 Los Angeles, CA, 90067 United States Phone: 310-975-2600 Phone 2: Fax: E-mail: svarner@alvarezandmarsal.com DISBURSEMENT ADDRESS		
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: See attached rider	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: see attached rider	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: Yes, See attached rider	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Michael A. Rosenthal on 06-Apr-2020 4:27:48 p.m. Eastern Time Title: Counsel to Alvarez and Marsal CRF Management, LLC, as Investment Manager Company: Gibson, Dunn and Crutcher LLP		

Fill in this information to identify the case:

Debtor 1 Highland Capital Management, L.P.

Debtor 2 (Spouse, if filing) _____

United States Bankruptcy Court for the: Northern District of Texas

Case number 19-34054-sgj11

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** Highland Crusader Offshore Partners, L.P., et al. (see rider for all names of creditors)
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent? <small>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</small>	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
	<p><u>Michael A. Rosenthal, Gibson, Dunn & Crutcher</u> <small>Name</small></p> <p><u>200 Park Avenue</u> <small>Number Street</small></p> <p><u>New York NY 10166</u> <small>City State ZIP Code</small></p> <p>Contact phone <u>(212) 351-3969</u></p> <p>Contact email <u>mrosenthal@gibsondunn.com</u></p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>	<p><u>Alvarez & Marsal CRF Management, LLC</u> <small>Name</small></p> <p><u>2029 Century Park East, Suite 2060</u> <small>Number Street</small></p> <p><u>Los Angeles CA 90067</u> <small>City State ZIP Code</small></p> <p>Contact phone <u>310-975-2600</u></p> <p>Contact email <u>SVarner@alvarezandmarsal.com</u></p>

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.
See attached rider

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: See attached rider

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Amount entitled to priority

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____

Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____

Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____

Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/06/2020
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name Michael A. Rosenthal
First name Middle name Last name

Title Counsel to Alvarez & Marsal CRF Management, LLC, as Investment Manager

Company Gibson, Dunn & Crutcher LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 200 Park Avenue
Number Street
New York NY 10166
City State ZIP Code

Contact phone (212) 351-3969 Email mrosenthal@gibsondunn.com

RIDER TO THE PROOF OF CLAIM OF THE CRUSADER FUNDS

Dated: April 6, 2020

This Rider is part of the proof of claim (the “**Proof of Claim**”) filed by Highland Crusader Offshore Partners, L.P. (“**Master Fund**”), Highland Crusader Fund, L.P. (“**Onshore Fund**”), Highland Crusader Fund, Ltd. (“**Offshore Fund I**”), and Highland Crusader Fund II, Ltd. (“**Offshore Fund II**” and together with the Master Fund, Onshore Fund, and Offshore Fund I, the “**Crusader Funds**”), by and through their authorized investment manager, Alvarez & Marsal CRF Management, LLC, against Highland Capital Management, L.P. (“**HCM**” or the “**Debtor**”).

The Crusader Funds’ claim against HCM contains two components (which partially overlap) and a number of sub-components, described below.

I. FORFEITURE OF COMPENSATION

At all relevant times prior to August 4, 2016, HCM served as the investment manager for each of the Crusader Funds, pursuant to the terms of (a) the Joint Plan of Distribution of the Crusader Funds (the “**Plan**”); (b) the Scheme of Arrangement (the “**Scheme**”); (c) the Amended and Restated Investment Management Agreement between the Master Fund and HCM, dated as of June 1, 2006 (the “**Master Fund IMA**”); (d) the Amended and Restated Investment Management Agreement between Onshore Fund and HCM, dated as of June 1, 2006 (the “**Onshore IMA**”); (e) the Amended and Restated Investment Management Agreement between Offshore Fund I and HCM, dated as of September 1, 2006 (the “**Offshore I IMA**”); and (f) the Third Amended and Restated Investment Management Agreement between Offshore Fund II and HCM, dated as of September 1, 2006 (the “**Offshore II IMA**” and together with the Master Fund IMA, the Onshore IMA, and the Offshore I IMA, the “**IMAs**”). The Plan, the Scheme, and the IMAs are collectively referred to as the “**Fund Documents**.”

Pursuant to the Fund Documents, HCM received compensation from the Crusader Funds in the form of Management Fees, Distribution Fees, and rights to Deferred Fees (each as defined in the Plan, the Scheme, or the IMAs). However, by no later than January 2012, HCM willfully and deliberately breached its obligations under the Fund Documents and breached its duty of loyalty to the Crusader Funds. At that time, HCM caused the Crusader Funds to borrow on margin from a trading account at Jefferies, and used the borrowings to inflate the amount of distributions being made, so as to inflate the amount of HCM’s Distribution Fee. Following that date, HCM committed other acts of disloyalty and further breached its obligations to the Crusader Funds, as described in the Arbitration Award (as defined below) and as shown by the evidence presented at the arbitration hearing that led to the Arbitration Award.

As a result, pursuant to the “faithless servant” doctrine, HCM forfeited any right it had to compensation for its services from the Crusader Funds, from the date of HCM’s first disloyal act onward. *See, e.g., Phansalkar v. Andersen Weinroth & Co., L.P.*, 344 F.3d 184, 188 (2d Cir. 2003) (“We hold that New York’s faithless servant doctrine requires Phansalkar to forfeit all compensation received after his first disloyal act.”). As a “faithless servant,” HCM is obligated to disgorge all compensation received from the Crusader Funds from the date of HCM’s first disloyal act, and has no right to any further compensation from the Crusader Funds. The Crusader Funds thus assert a claim in the following amounts:

1. Management Fees: \$8,233,337
2. Distribution Fees: \$15,250,109
3. Deferred Fees: \$32,313,000¹
4. Other Fees: In the amount of any other compensation, fees or distributions which may now or in the future otherwise be owing to HCM

The Crusader Funds also assert an unliquidated claim for pre- and post-petition interest, attorneys' fees, costs, and other expenses in connection with recovering such amounts. The Crusader Funds also assert a claim in an unliquidated amount for any Deferred Fees to which HCM might otherwise become entitled in the future under the Fund Documents.

The Crusader Funds currently hold, and may in the future hold, amounts that HCM may claim are, either now or in the future, due to it as a result of services provided by HCM to the Crusader Funds (the “Withheld Amounts”). As a result of the claims detailed in the Arbitration Award and this Proof of Claim (including without limitation, the faithless servant claim), the Crusader Funds dispute that any such amounts are due. However, to the extent that HCM prevails on an entitlement to a claim against the Crusader Funds, the Crusader Funds have a right of setoff against any such claim to the extent of its claims against HCM and such right of setoff is further secured by the Withheld Amounts.

II. ARBITRATION AWARD

This component of the claim is asserted in the alternative to the claim asserted by the Redeemer Committee of the Crusader Funds (the “**Redeemer Committee**”). The Crusader Funds would withdraw this portion of their claim if and to the extent that the Redeemer Committee’s claim is allowed.

On March 6, 2019, a panel of arbitrators issued a Partial Final Award (the “**March Award**”) in favor of the Redeemer Committee against HCM. On April 29, 2019, the panel issued a Final Award (the “**Final Award**,” and together with the March Award, the “**Arbitration Award**”) in favor of the Redeemer Committee against HCM.² Substantially all of the relief awarded by the panel was expressly noted to be “for the benefit of the Fund.” Final Award ¶¶ F.a.iii-x. The Arbitration Award is subject to the Federal Arbitration Act and The Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Redeemer Committee timely moved to confirm the Award in the Delaware Chancery Court. HCM moved for partial vacatur of the Arbitration Award in June 2019. The time period to move to vacate the Arbitration Award expired prior to the Petition Date (as defined below). All capitalized terms that are not defined below have the meanings given to such terms in the Arbitration Award.

¹ This element of the claim for forfeiture of compensation overlaps in part with a component of the Arbitration Award claim, described in Section II below.

² Copies of the Arbitral Award have previously been provided the Debtor, the Official Committee of Unsecured Creditors, and the Office of the United States Trustee. The Crusader Funds reserve the right to file a copy of the Arbitral Award with the Bankruptcy Court.

The Arbitration Award component of the Crusader Funds' claim includes the following sub-components, and each is based on the Arbitration Award:

1. **Damage Claim.** The Crusader Funds assert a liquidated claim for at least \$190,824,557 plus interest that is accruing beginning as of October 16, 2019, the date that HCM filed its bankruptcy case the (the "**Petition Date**"). As set forth in the Final Award, the separate components of the Damage Claim are as follows, and the amounts set forth below are as of the Petition Date, including prepetition interest awarded under the Arbitration Award accrued to the Petition Date:
 - a. Deferred Fee Claim: \$43,105,395 (Final Award ¶ F.a.ii.1)
 - b. Distribution Fee Claim: \$22,922,608 (Final Award ¶ F.a.ii.2)
 - c. Taking of Plan Claims: \$3,277,991 (Final Award ¶ F.a.v)
 - d. CLO Trades Claim: \$685,195 (Final Award ¶ F.a.vi)
 - e. Credit Suisse Claim: \$3,660,130 (Final Award ¶ F.a.vii)
 - f. UBS Claim: \$2,600,968 (Final Award ¶ F.a.viii)
 - g. Barclays Claim: \$30,811,366 (Final Award ¶ F.a.ix)
 - h. Legal Fees, Costs, and Expenses: \$11,351,850 (Final Award ¶ F.a.xi)
 - i. Administrative Fees: \$514,164 (Final Award ¶ F.a.xii)
 - j. Cornerstone Award: \$71,894,891 (Final Award ¶ F.a.ix)

The Crusader Funds also assert an unliquidated claim for post-petition interest, attorneys' fees, costs, and other expenses that continue to accrue in connection with the Damage Claim.

2. **Cancellation of Limited Partnership Interests.** The Final Award provides, in relevant part, for the cancellation of the limited partnership interests in the Crusader Funds that are (i) held by HCM and Charitable DAF Fund, L.P. that are identified in RC411, and (ii) held by Eames, Ltd. (Final Award ¶¶ F.a.v and F.a.x). The Final Award provides for HCM to transfer, or take all necessary steps to cause the transfer of, such interests to the Redeemer Committee for the benefit of the Crusader Funds. The Final Award also provides that the Redeemer Committee has the independent right to cause the Crusader Funds to cancel such limited partnership interests. The Crusader Funds reserve the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cancel such limited partnership interests in accordance with the Final Award. The Crusader Funds assert a claim in an unliquidated amount in the event all such limited partnership interests are not cancelled in accordance with the Final Award.
3. **Deferred Fee Account.** The Arbitration Award granted the Redeemer Committee's request for a declaratory judgment with respect to the immediate distribution of the

Deferred Fee Account, which the Crusader Funds continue to hold, and ordered the payment of the funds in such account to the Redeemer Committee for disbursement to the Consenting Compulsory Redeemers (March Award ¶ VII.D; Final Award ¶ F.a). The Crusader Funds reserve the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cause the distribution of the funds held in the Deferred Fee Account in accordance with the Arbitration Award. The Crusader Funds assert a claim in an unliquidated amount in the event all such funds are not distributed in accordance with the Arbitration Award.

The Crusader Funds file this portion of the Proof of Claim out of an abundance of caution and in the event that the Arbitration Award is determined not to be an executory contract. However, the Arbitration Award may be an executory contract under section 365 of the Bankruptcy Code. HCM has not yet moved to assume or reject such contract. The Crusader Funds reserve the right to dispute whether the Arbitration Award is an executory contract and, if so, HCM's decision to reject such contract. If the Arbitration Award is determined to be an executory contract and is allowed to be rejected by the Bankruptcy Court, the Crusader Funds reserve the right to file an amended proof of claim by the bar date for the filing of rejection damages claims; if no such amended proof of claim is filed, then, this claim shall serve as the Crusader Funds' rejection damages claim. By filing this Proof of Claim, the Crusader Funds do not concede that the Arbitration Award is an executory contract, that amounts awarded under the Arbitration Award are prepetition claims or that they are now required to file a proof of claim to be entitled to the amounts described in the Arbitration Award.

* * *

The Crusader Funds reserve all rights to amend or modify this Proof of Claim in any respect, including, without limitation, to assert other or additional claims, or for the purpose of fixing or liquidating any contingent or unliquidated claims. This Proof of Claim is without prejudice to any other rights the Crusader Funds may have against the Debtor, its officers, employees, successors, or assigns.

The Crusader Funds expressly reserve all of their procedural and substantive defenses and rights with respect to any claim that may be asserted against the Crusader Funds by the Debtor, including, without limitation, any rights of setoff or recoupment.

The filing of this Proof of Claim shall not constitute: (i) an admission of liability by the Crusader Funds to any party; (ii) a waiver or release of the Crusader Funds' rights against any person, entity, or property; (iii) a consent by the Crusader Funds to the jurisdiction of the Bankruptcy Court with respect to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases or otherwise involving the Crusader Funds; (iv) a waiver or release of the right to move to withdraw the reference to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant; (v) a waiver or release of the right to seek to have the Bankruptcy Court abstain with respect to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant, (vi) a waiver or release of the right to have final

orders entered only after *de novo* review by a United States District Judge; (vii) a waiver or release of their right to trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases; (viii) a consent to a jury trial in any proceeding so triable in these cases or any case, controversy or proceeding related to these cases, (ix) a waiver or release of their right to arbitration under the Plan and Scheme; (x) an election of remedies or limitation of rights or remedies; or (xi) a waiver or release of any other rights, claims, actions, defenses, setoffs, or recoupments to which they are or may be entitled under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly reserved.

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

In re:)
) Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹)
) Case No. 19-34054-sgj11
)
Debtor.)
)
)

**DECLARATION OF JOHN A. MORRIS
IN SUPPORT OF THE DEBTOR’S MOTION FOR ENTRY OF AN ORDER APPROVING
SETTLEMENTS WITH (A) THE REDEEMER COMMITTEE OF THE HIGHLAND
CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND CRUSADER FUNDS
(CLAIM NO. 81), AND AUTHORIZING ACTIONS CONSISTENT THEREWITH**

¹ 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.

I, John A. Morris, pursuant to 28 U.S.C. § 1746(a), under penalty of perjury, declare as follows:

1. I am a partner in the law firm Pachulski, Stang, Ziehl & Jones LLP, counsel to the above-referenced Debtor, and I submit this Declaration in support of the *Debtor's Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* being filed concurrently with this Declaration. I submit this Declaration based on my personal knowledge and review of the documents listed below.

2. Attached as **Exhibit 1** is a true and correct copy of a Stipulation entered between and among (i) Highland Capital Management, L.P. ("HCMLP"), (ii) Eames, Ltd., (iii) the Redeemer Committee of the Highland Crusader Fund (the "Redeemer Committee"), and (iv) Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland Crusader Fund II, Ltd. (together, the "Crusader Funds").

3. Attached as **Exhibit 2** is a true and correct copy of a *Partial Final Award*, dated March 6, 2019, and rendered in the arbitration between the Redeemer Committee and HCMLP, Case No. 1-16-0002-6927 (the "Arbitration").

4. Attached as **Exhibit 3** is a true and correct copy of a *Disposition of Application of Modification of Award*, dated March 14, 2019, and rendered in the Arbitration.

5. Attached as **Exhibit 4** is a true and correct copy of a *Final Award*, dated as of April 29, 2019, and rendered in the Arbitration.

6. Attached as **Exhibit 5** is a true and correct copy of a proof of claim filed by the Redeemer Committee on April 3, 2020 and denoted by the Debtor's claims agent as claim number 72.

7. Attached as **Exhibit 6** is a true and correct copy of a proof of claim filed by the Crusader Funds on April 6, 2020 and denoted by the Debtor's claims agent as claim number 81.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: September 23, 2020.

/s/ John A. Morris

John A. Morris

EXHIBIT 1

This stipulation (the “Stipulation”) is made and entered into by and among (i) Highland Capital Management, L.P., as debtor and debtor-in-possession (the “Debtor”), (ii) Eames, Ltd., (“Eames”), (iii) the Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”), (iv) Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland Crusader Fund II, Ltd. (collectively, the “Crusader Funds” and together with the Debtor, Eames, and the Redeemer Committee, the “Parties”), (v) solely with respect to paragraphs 10 through 15 of this Stipulation, Hockney, Ltd., Strand Advisors, Inc., Highland Special Opportunities Holding Company (“SOHC”), Highland CDO Opportunity Master Fund, L.P., Highland Financial Partners, L.P. (“HFPLP” and together with SOHC, the “Contingent Parties”), Highland Credit Strategies Master Fund, L.P., and Highland Credit Opportunities CDO, L.P. (collectively, the “Highland Additional Release Parties”), and (vi) solely with respect to paragraphs 10 through 15 of this Stipulation, House Hanover, LLC, and Alvarez & Marsal CRF Management, LLC, (collectively, the “Crusader Additional Release Parties,” and together with the Highland Additional Release Parties, the “Additional Release Parties”). This Stipulation provides for the allowance of general unsecured claims against the Debtor, for the Debtor and Eames to consent to the Redeemer Committee and the Crusader Funds implementing certain terms of the Arbitration Award (as defined below), and for the Debtor to take certain actions in connection with such implementation.

RECITALS

WHEREAS, on October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the “Bankruptcy Code”). The Debtor is managing and operating its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the Debtor's chapter 11 case is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, the Debtor served as the investment manager for the Crusader Funds until August 4, 2016, as of which date the Redeemer Committee, as set forth in a letter and notice dated July 5, 2016, terminated the Debtor;

WHEREAS, on July 5, 2016, the Redeemer Committee commenced an arbitration against the Debtor by filing a Notice of Claim with the American Arbitration Association in which it asserted various claims arising from the Debtor's service as the investment manager for the Crusader Funds (the "Arbitration");

WHEREAS, following an evidentiary hearing during the Arbitration, the panel of arbitrators issued (a) a *Partial Final Award*, dated March 6, 2019 (the "March Award"), (b) a *Disposition of Application for Modification of Award*, dated March 14, 2019 (the "Modification Award"); and (c) a *Final Award*, dated May 9, 2019 (the "Final Award," and together with the March Award and the Modification Award, the "Arbitration Award");

WHEREAS, as of the Petition Date, the aggregate amount of the damages awarded under the Arbitration Award, including the accrual of pre-judgment interest but before applying any offsets, was \$190,824,557, which amount includes the Debtor's obligation to purchase the shares of Cornerstone Healthcare Group ("Cornerstone") that are held by the Crusader Funds in exchange for the sum of (a) \$48,070,407 million in cash, and (b) accrued pre-judgment interest on such amount;

WHEREAS, in addition to awarding monetary damages, the Arbitration Award also provided for, among other things, (i) the cancellation of all limited partnership interests or shares in the Crusader Funds that are held by the Debtor, Eames, and Charitable DAF Fund, L.P.

(“Charitable DAF”), respectively, and (ii) the Crusader Fund to disburse the funds held in the Deferred Fee Account¹ to the Consenting Compulsory Redeemers;

WHEREAS, on April 3, 2020, the Redeemer Committee filed a proof of claim in respect of the Arbitration Award, Proof of Claim number 72 (“Claim 72”);

WHEREAS, on April 6, 2020, the Crusader Funds filed a proof of claim, Proof of Claim number 81 (“Claim 81”) that asserted a claim in the alternative to the Redeemer Committee Proof of Claim for at least \$23,483,446 in respect of certain fees that the Crusader Funds had paid to the Debtor prior to the Debtor being terminated (the “Crusader Funds Fee Claim”);

WHEREAS, the Debtor has asserted that it is entitled to certain credits or offsets with respect to the damages provided in the Arbitration Award, and that it is has certain meritorious defenses with respect to the Crusader Funds Fee Claim;

WHEREAS, the Parties have agreed to settle and resolve all claims and disputes between and among them, including Claim 72 and Claim 81, and for the Redeemer Committee and the Crusader Funds to implement certain relief granted in the Arbitration Award on the terms and conditions set forth in this Stipulation, and the Parties and the Additional Release Parties have agreed to exchange the mutual releases set forth herein:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Claim 72 shall be allowed in the amount of \$137,696,610 as a general unsecured claim.

¹ All capitalized terms not defined herein shall have the meanings given to such terms in (i) the Arbitration Award and (ii) the Joint Plan of Distribution of the Crusader Funds, and the Scheme of Arrangement between Highland Crusader Fund II, Ltd. and its Scheme Creditors (together, the “Crusader Plan”).

2. Claim 81 shall be allowed in the amount of \$50,000 as a general unsecured claim.

3. The Debtor and Eames each consent to the Crusader Funds, on or after the date an order of the Bankruptcy Court approving this Stipulation pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code becomes a final and non-appealable order (the “Stipulation Effective Date”), cancelling or extinguishing all of the limited partnership interests and shares in the Crusader Funds held by each of them respectively (collectively, the “Cancelled Highland and Eames Interests”), as provided for in the Arbitration Award. Each of the Debtor and Eames represents solely for itself that (a) it has the authority to consent to the cancellation or extinguishment of the Cancelled Highland and Eames Interests that it holds, and (b) upon the occurrence of the Stipulation Effective Date, no other actions by or on behalf of it are necessary for such cancellation or extinguishment. Each of the Debtor and Eames agrees that it will not object to the Crusader Funds, on or after the Stipulation Effective Date, cancelling or extinguishing the limited partnership interests or shares in the Crusader Funds held by Charitable DAF (the “Cancelled DAF Interests,” and together with the Cancelled Highland and Eames Interests, the “Cancelled LP Interests”). Each of the Debtor and Eames acknowledges that the cancellation or extinguishment of the Cancelled LP Interests is intended to implement Sections F.a.v and F.a.x.2 of the Final Award.²

4. The Parties acknowledge that the limited partnership interests or shares in the Crusader Funds held by the following entities and individuals shall not be extinguished pursuant to this Stipulation: Highland Capital Management Multi-Strategy Insurance Dedicated Fund, L.P.; Highland Capital Management Services; Highland 401(k) Plan; Highland 401(k) Plan Retirement Plan and Trust; Highland 401(k) Plan Retirement Plan and Trust II; James Dondero;

² See also March Award §§ III(H)(25), VII(C)(2).

and Mark Okada (collectively, the “Retained LP Interests”).

5. Each of the Debtor and Eames acknowledges and agrees that (a) the Crusader Funds have reserved (i) distributions that, absent the Arbitration Award, would have been payable in respect of the Cancelled LP Interests, (ii) funds in respect of Deferred Fees and the Deferred Fee Account that, absent the Debtor’s termination as investment manager for the Crusader Funds and the Arbitration Award, may have been payable to the Debtor in accordance with the Crusader Plan and (iii) certain other monies as to which the Debtor and Eames may have had an interest in the absence of this Stipulation (the reserved distributions and funds described in subparagraphs (i), (ii) and (iii), collectively, the “Reserved Distributions”); (b) the Crusader Funds, after the Stipulation Effective Date, intend to distribute in accordance with the Crusader Plan to the applicable holders of limited partnership interests or shares in the Crusader Funds the Reserved Distributions, and that the Debtor, Eames, and Charitable DAF shall not receive any part of such distribution; and (c) after giving effect to the cancellation or extinguishment of the Cancelled LP Interests, none of the Debtor, Eames, or Charitable DAF shall receive any further distributions, payments or fees from the Crusader Funds, including without limitation the Reserved Distributions, on account of any of the Cancelled LP Interests or any other role or position of the Debtor with respect to the Crusader Funds (including but not limited to its role as the investment manager for the Crusader Funds until August 4, 2016). The Debtor acknowledges and agrees that, beginning as of the Stipulation Effective Date, it will not receive any payments from the Crusader Funds in respect of any Deferred Fees, Distribution Fees, or Management Fees. Without limiting the foregoing, the Parties acknowledge and agree that the funds described in the first sentence of this paragraph include monies held in reserve with respect to the Reserved Distributions, the Deferred Fee Account, any Deferred Fees currently accrued or that might have

accrued in the future, any Distribution Fees, and any Management Fees.

6. The Debtor represents that, to its actual knowledge and subject to paragraph 4 above, it does not control any fund, or hold any equity interest in any entity, that holds a claim against the Crusader Funds or the Redeemer Committee (including any claims in respect of the Cornerstone shares held by the Crusader Funds, but excluding, with respect to the Crusader Funds, the right to receive distributions with respect to the Retained LP Interests).

7. On the Stipulation Effective Date, the Amended and Restated Shareholders Agreement, substantially in the form attached as Exhibit A, which shall have been executed by all parties thereto, shall be jointly released by the Parties from escrow and become effective (as executed, the "Cornerstone Shareholders Agreement"). In the event that such fully executed agreement is not released from escrow on the Stipulation Effective Date for any reason other than the Redeemer Committee or the Crusader Funds not authorizing such agreement's release from escrow, then this Stipulation shall be of no force and effect, and this Stipulation (including the agreements and settlements incorporated herein) may not be used by any Party for any purpose.

8. Except as otherwise provided in a plan of reorganization proposed by the Debtor and or other entities and agreed to by the Redeemer Committee, the Debtor shall, in good faith, use commercially reasonable efforts to monetize all shares of capital stock of Cornerstone held by the Debtor, any funds that the Debtor manages, and the Crusader Funds (collectively, the "Cornerstone Shares"), in accordance with the schedule attached hereto as Exhibit B (the "Schedule"), in order to maximize, to the extent possible under the circumstances, the proceeds of such monetization to each such entity. [REDACTED]

[REDACTED]

[REDACTED]

9. The Debtor shall instruct the claims agent in the Debtor’s chapter 11 case to adjust the claims register in accordance with this Stipulation.

10. On the Stipulation Effective Date, the following releases shall take effect:

- A. To the maximum extent permitted by applicable law, the Debtor, and each Highland Additional Release Party, irrevocably releases, acquits, exonerates, and forever discharges (i) the Redeemer Committee, each of the Crusader Funds, and each of the Crusader Additional Release Parties, and (ii) with respect to each such person set forth in (i) above, such person’s predecessors, successors, assigns and affiliates (whether by operation of law or otherwise), and each of their respective present and former members, officers, directors, employees, managers, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, employees, subsidiaries, divisions, management companies, and other representatives, in each case acting in such capacity, from all manner of actions, whether in law, in equity, or statutory, and whether presently known or unknown, matured or contingent, liquidated or unliquidated, including any claims, defenses, and affirmative defenses which were or could have been asserted

[REDACTED]

with respect to: (a) the Crusader Funds, including but not limited to any claims, defenses, and affirmative defenses which were or could have been brought, or which otherwise concern or are related to: (i) the Arbitration, (ii) the Debtor's service as investment manager or General Partner for the Crusader Funds, (iii) Alvarez & Marsal CRF Management, LLC's service as replacement manager of the Crusader Funds, (iv) House Hanover, LLC, as General Partner of the Crusader Funds, (v) the Cancelled LP Interests, and (vi) any distributions or payments with respect to the Deferred Fee Account, Deferred Fees, Management Fees, Distribution Fees, or Reserved Distributions, and (b) the alleged fraudulent transfers and all other claims asserted by UBS Securities LLC and UBS AG, London Branch (collectively, "UBS") in *UBS Securities LLC, et al v. Highland Capital Mgmt., L.P., et al*, No. 650097-2009 (N.Y. Sup. Ct.) or by UBS in the Debtor's chapter 11 case (collectively, the "UBS Claims"), including but not limited to claims that the Debtor or any Additional Highland Release Party could assert for contribution, indemnity or joint tortfeasor liability in connection with the UBS Claims; provided, however, that such release shall not apply with respect to the obligations of the Redeemer Committee, each of the Crusader Funds, or each of the Crusader Additional Release Parties pursuant to this Stipulation, including Exhibit B hereto, and the Cornerstone Shareholders Agreement.

- B. To the maximum extent permitted by applicable law, the Redeemer Committee, each of the Crusader Funds, and each Crusader Additional Release Party irrevocably releases, acquits, exonerates, and forever discharges (i) the Debtor, Eames, and each Highland Additional Release Party, and (ii) with respect to each such person set forth in (i) above, such person's predecessors, successors, assigns and affiliates (whether by operation of law or otherwise), and each of their respective present and former members, officers, directors, employees, managers, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, employees, subsidiaries, divisions, management companies, and other representatives, in each case acting in such capacity, from all manner of actions, whether in law, in equity, or statutory, and whether presently known or unknown, matured or contingent, liquidated or unliquidated, including any claims, defenses, and affirmative defenses which were or could have been asserted with respect to: (a) the Crusader Funds, including but not limited to any claims, defenses, and affirmative defenses which were or could have been brought, or which otherwise concern or are related to: (i) the Arbitration, (ii) the Debtor's service as investment manager or General Partner for the Crusader Funds, (iii) the Cancelled LP Interests, and (iv) any distributions or payments with respect to the Deferred Fee Account, Deferred Fees, Management Fees, Distribution Fees, or Reserved Distributions, and (b) the alleged fraudulent transfers and all other claims

asserted by UBS Securities LLC and UBS AG, London Branch (collectively, “UBS”) in *UBS Securities LLC, et al v. Highland Capital Mgmt., L.P., et al*, No. 650097-2009 (N.Y. Sup. Ct.) or by UBS in the Debtor’s chapter 11 case (collectively, the “UBS Claims”), including but not limited to claims that the Redeemer Committee, the Crusader Funds, or any Additional Crusader Release Party could assert for contribution, indemnity or joint tortfeasor liability in connection with the UBS Claims; provided, however, that (I) such release shall not apply with respect to the obligations of the Debtor, Eames, or each of the Highland Additional Release Parties under this Stipulation, including Exhibit B hereto, the allowance of or distributions in respect of Claim 72 and Claim 81, and the Cornerstone Shareholders Agreement; (II) notwithstanding anything to the contrary herein, neither James Dondero nor Mark Okada, nor any entities owned or controlled by either of them, other than the Debtor, Eames, and any Highland Additional Release Party solely with respect to such entities and not as to any capacity in which James Dondero or Mark Okada had an interest in or served with respect to such entities, is released from any claims, including without limitation any claims arising from obligations owed to the Debtor; and provided further, and solely for the avoidance of doubt, that none of the releases set forth herein shall impair the right or ability of the applicable holders of Claim 72 or Claim 81 to receive distributions of any kind from the Debtor’s estate in satisfaction of such respective claims in the amounts and on such terms as are provided for herein; and (III) in the event any of the Highland Additional Release Parties fails to execute this Stipulation, this Release is null, void and of no legal effect as to that non-signing Highland Additional Release Party.

11. At present, certain of the Parties are engaged in one or more of the following pending lawsuits and actions: (a) *Redeemer Committee of the Highland Crusader Fund v. Highland Capital Management, L.P.*, Chancery Court, Delaware, C.A. No. 12533-VCG (the “Delaware Action”); (b) *Redeemer Committee of the Highland Crusader Fund and Highland Capital Management, L.P.*, Supreme Court of Bermuda, Civil Jurisdiction, Case No. 01-16-0002-6927 (“Bermuda Action No. 1”); (c) *Highland Capital Management, L.P. and Redeemer Committee of the Highland Crusader Fund*, Supreme Court of Bermuda, Civil Jurisdiction (Commercial Court), 2017: No. 308 (“Bermuda Action No. 2”); and (d) *Redeemer Committee of the Highland Crusader Fund and Highland Capital Management, L.P.*, Grand Court of Cayman

Islands, Financial Services Division, Cause No. 153 of 2019 (CRJ) (the “Grand Cayman Action” and together with the Delaware Action and Bermuda Action No. 1, the “Redeemer Actions”). The Parties agree that (1) as of the Stipulation Effective Date, the Redeemer Committee and each of the Crusader Funds covenants not to prosecute, and shall refrain from prosecuting, any of the Redeemer Actions against the Debtor, Eames, or any of the Highland Additional Release Parties, and (2) as soon as reasonably practicable after the Stipulation Effective Date, the Debtor shall cause Bermuda Action No. 2 to be dismissed with prejudice.

12. This Stipulation, together with the Cornerstone Shareholders Agreement and the Schedule, contains the entire agreement between and among the Parties and the Additional Release Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between and among the Parties and the Additional Release Parties relating thereto.

13. This Stipulation may not be modified other than by a signed writing executed by the Parties; provided, however, that paragraphs 10 through 15 may not be modified other than by a signed writing that is also executed by the Additional Release Parties.

14. Each person who executes this Stipulation represents that he or she is duly authorized to do so on behalf of the respective Party or Additional Release Party and that each Party or Additional Release Party has full knowledge and has consented to this Stipulation, provided, however, that (a) the effectiveness of the Debtor’s execution of this Stipulation shall be subject to entry of an order of the Bankruptcy Court approving this Stipulation and authorizing the Debtor’s execution thereof, and (b) the Redeemer Committee represents and warrants to the Debtor, Eames, and each of the Highland Additional Release Parties that, in conformity with the Redeemer Committee’s corporate governance documents, at least the minimum number of

members of the Redeemer Committee have executed this Stipulation to cause it to be legally binding on the Redeemer Committee.

15. The Debtor shall use commercially reasonable efforts to cause each of the Contingent Parties to execute this Stipulation not later than the date on which the Bankruptcy Court enters an order confirming a plan of reorganization or liquidation. Notwithstanding the foregoing, the Parties acknowledge and agree that the failure of either or both of the Contingent Parties to execute this Stipulation shall not affect (a) the rights, obligations, or duties of any of the Parties or (b) the enforceability of this Stipulation.

16. Not later than September 23, 2020, the Debtor shall file with the Bankruptcy Court a motion for an order approving this Stipulation, which motion shall be in form and substance satisfactory to the Crusader Funds and the Redeemer Committee, pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code.

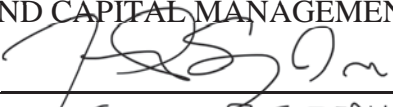
17. This Stipulation may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument, and shall be effective against a Party or Additional Release Party upon the Stipulation Effective Date.

18. This Stipulation will be exclusively governed by and construed and enforced in accordance with the laws of the State of New York, without regard to its conflicts of law principles, and all claims relating to or arising out of this Stipulation, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of New York, excluding New York's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Stipulation.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Stipulation as of the day and year set forth below:

Dated: HIGHLAND CAPITAL MANAGEMENT, L.P.

By: 
Name: James P. Seery NTC
Title: Authorized Signatory

REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND

Dated: Grosvenor Capital Management, L.P.

By: _____
Name: Eric Felton, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: _____
Name: Tom Rowland, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: _____
Name: Burke Montgomery, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: _____
Name: Brian Zambie, designated Representative of Grosvenor Capital Management, L.P.

In witness whereof, the parties hereto, intending to be legally bound, have executed this Stipulation as of the day and year set forth below:

Dated: HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name:
Title:

REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND

Dated: Grosvenor Capital Management, L.P.

By: /s/ Eric Felton
Name: Eric Felton, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: /s/ Tom Rowland
Name: Tom Rowland, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: /s/ Burke Montgomery
Name: Burke Montgomery, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: /s/ Brian Zambie
Name: Brian Zambie, designated Representative of Grosvenor Capital Management, L.P.

Dated: Concord Management, LLC

By: /s/ Brant Behr

Name: Brant Behr, designated Representative of Concord Management, LLC

Dated: Baylor University

By: /s/ David Morehead

Name: David Morehead, designated Representative of Baylor University

Dated: Seattle Fund SPC

By: /s/ Stuart Robertson

Name: Stuart Robertson, designated Representative of Seattle Fund SPC

Dated: Man Solutions Limited

By: /s/ Michael Buerer

Name: Michael Buerer, designated Representative of Man Solutions Limited

Dated: Army and Air Force Exchange Service

By: /s/ James Jordan

Name: James Jordan, designated Representative of Army and Air Force Exchange Service

Dated: HIGHLAND CRUSADER OFFSHORE PARTNERS, L.P.

By: House Hanover, Its General Partner

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: HIGHLAND CRUSADER FUND, L.P.

By: House Hanover, Its General Partner

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: HIGHLAND CRUSADER FUND, LTD.

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: HIGHLAND CRUSADER FUND II, LTD.

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: HOUSE HANOVER, LLC

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: ALVAREZ & MARSAL CRF MANAGEMENT, LLC

By: /s/ Steven Varner

Name: Steven Varner

Title: Managing Director

Dated: EAME
By: 
Name: Abali Hoilett
Title: Authorised Signatory of the Director MaplesFS Directors Limited

Dated: HOC
By: 
Name:
Title: Authorised Signatory of the Director MaplesFS Directors Limited

Dated: STRAND ADVISORS, INC.
By: _____
Name:
Title:

Dated: HIGHLAND SPECIAL OPPORTUNITIES HOLDING COMPANY
By: _____
Name:
Title:

Dated: HIGHLAND CDO OPPORTUNITY MASTER FUND, L.P.
By: _____
Name:
Title:

Dated: HIGHLAND FINANCIAL PARTNERS, L.P.
By: _____
Name:
Title:

Dated: HIGHLAND CREDIT STRATEGIES MASTER FUND, L.P.
By: _____
Name:
Title:


Dated: EAMES, LTD.

By: _____
Name:
Title:

Dated: HOCKNEY, LTD.

By: _____
Name:
Title:

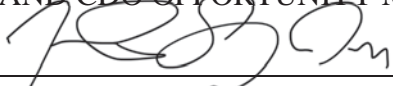
Dated: STRAND ADVISORS, INC.

By: 
Name: James P. Seery, Jr.
Title: Authorized Signatory

Dated: HIGHLAND SPECIAL OPPORTUNITIES HOLDING COMPANY

By: _____
Name:
Title:


Dated: HIGHLAND CDO OPPORTUNITY MASTER FUND, L.P.

By: 
Name: James P. Seery, Jr.
Title: Authorized Signatory

Dated: HIGHLAND FINANCIAL PARTNERS, L.P.

By: _____
Name:
Title:

Dated: HIGHLAND CREDIT STRATEGIES MASTER FUND, L.P.

By: 
Name: James P. Seery, Jr.
Title: Authorized Signatory

Dated:

HIGHLAND CREDIT OPPORTUNITIES CDO, L.P.

By: _____

Name:

Title:

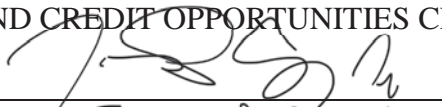

James P. Steery, Jr.
Authorized Signatory

EXHIBIT A

CORNERSTONE HEALTHCARE GROUP HOLDING, INC.

AMENDED & RESTATED STOCKHOLDERS' AGREEMENT

[•], 2020

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AMENDED & RESTATED STOCKHOLDERS' AGREEMENT

THIS AMENDED & RESTATED STOCKHOLDERS' AGREEMENT (the "**Agreement**") is made as of the [●] day of [●], 2020 by and among (i) Cornerstone Healthcare Group Holding, Inc., a Delaware corporation (the "**Company**"), (ii) certain holders of the Company's common stock (the "**Common Stock**") (each of which is referred to herein as a "**Stockholder**" and collectively as the "**Stockholders**"), and (iii) Highland Capital Management, L.P., a Delaware limited partnership ("**HCMLP**"). HCMLP (if and to the extent it is or becomes a Stockholder) and the Stockholders that are affiliates of HCMLP, including any investment funds controlled by or under common control with, or managed directly or indirectly by, HCMLP are collectively referred to herein as "**Highland Capital**" and are set forth on Schedule A, as it may be updated from time to time. Individual Stockholders that are part of the Highland Capital group of Stockholders are sometimes referred to as a "**Highland Capital Stockholders**." Any Stockholders other than Highland Capital Stockholders are collectively referred to herein as the "**Remaining Stockholders**" and are set forth on Schedule B, as it may be updated from time to time. All references in this Agreement to "**Crusader**" shall mean and include, as the case may be, (x) Highland Crusader Holding Corp., (y) any of its successors or assigns and (y) any purchaser or transferee of any Securities that at any time were held by Highland Crusader Holding Corp. (*i.e.*, any purchaser or transferee of Securities from Highland Crusader Holding Corp. and any subsequent purchasers or transferees of any such Securities).

RECITALS:

WHEREAS, the Company, the Stockholders and HCMLP are parties to that certain Stockholders' Agreement of the Company, dated as of March 24, 2010 (as the same may have been amended, modified or supplemented in accordance with its terms, the "**First Stockholders' Agreement**").

WHEREAS, the Stockholders hold shares of Common Stock of the Company, and the Stockholders, the Company and HCMLP desire to enter into this Agreement to (i) provide certain rights to, and impose certain restrictions on, the Stockholders and HCMLP with respect to the Common Stock held by them and (ii) amend and modify certain provisions in the First Stockholders' Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises and covenants set forth herein, and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

TRANSFER RESTRICTIONS; RIGHT OF FIRST REFUSAL

Section 1.1 Restrictions on Transfer.

(a) Generally. During the term of this Agreement, all of the Common Stock and any other equity securities (collectively, "**Securities**") now owned or hereafter acquired by

any Stockholder shall be subject to the terms and conditions of this Agreement. No transfer, whether voluntary or involuntary, of the Securities shall be valid unless it is made pursuant to the terms and conditions of this Agreement; and, accordingly, any proposed transfer not made in compliance with the requirements of this Agreement shall be null and void ab initio, shall not be recorded on the books of the Company or its transfer agent, and shall not be recognized by the Company.

(b) Permitted Transfers. Notwithstanding the foregoing, the first refusal rights and co-sale rights of the Company and Highland Capital, as set forth below in this Article I, shall not apply to (i) any transfer of Securities by a Stockholder to any such Stockholder's spouse, parents, siblings (by blood, marriage or adoption) or lineal descendants (by blood, marriage or adoption); (ii) any transfer of Securities by a Stockholder to a trust, partnership, corporation, limited liability company or other similar entity owned exclusively by such Stockholder and/or such Stockholder's spouse, parents, siblings (by blood, marriage or adoption) or lineal descendants (by blood, marriage or adoption) for the benefit of such Stockholder or such Stockholder's spouse, parents, siblings or lineal descendants; (iii) any transfer of Securities by a Stockholder, or upon a Stockholder's death to the executors, administrators, testamentary trustees, legatees or beneficiaries of such Stockholder; (iv) any transfer of Securities by a Stockholder to any person who controls, is controlled by or is under common control with such Stockholder (within the meaning of the Securities Act of 1933, as amended (the "*Securities Act*")); (v) any transfer of Securities by a Stockholder pursuant to a bona fide loan transaction which creates a mere security interest in the Securities; (vi) the Securities held Crusader; *provided, however*, that in each such case, each transferee, pledgee, donee, heir or distributee shall, as a condition precedent to such transfer, become a party to this Agreement by executing an Adoption Agreement substantially in the form attached as Annex A and shall have all of the rights and obligations set forth hereunder, and all interests in any trust, partnership, corporation, limited liability company or other similar entity to which any Securities are transferred shall themselves be deemed Securities and shall be subject to all of the provisions hereof. Such transferred Securities shall remain "*Securities*" hereunder, and such transferee shall be treated as a "*Stockholder*" for the purposes of this Agreement. Any purported transfers made in violation of this Section 1.1(b) shall be void.

(c) Company Repurchase or Public Offering. The provisions of this Agreement shall not apply to the sale of any Securities (i) to the public pursuant to a registration statement filed with, and declared effective by, the Securities and Exchange Commission (the "*SEC*") under the Securities Act or (ii) to the Company.

(d) Prohibited Transferees. Notwithstanding any other provision of this Agreement to the contrary, no Remaining Stockholder shall transfer any Target Shares to (a) any entity which, in the good faith and reasonable determination of the Company's Board of Directors, directly competes with the Company or (b) any customer, distributor or supplier of the Company, if the Company's Board of Directors should determine in good faith and reasonably that such transfer would result in such customer, distributor or supplier receiving information that would place the Company at a material competitive disadvantage with respect to such customer, distributor or supplier.

Section 1.2 Right of First Refusal.

(a) Grant of Right of First Refusal. Subject to the terms hereof, the Company and, to the extent such right is waived by the Company, HCMLP, on behalf of itself and Highland Capital (and, as provided below, each ROFR Participant) are each hereby granted a right of first refusal with respect to any proposed disposition of any Securities held by any Remaining Stockholder (except for a permitted transfer of the Securities under Section 1.1(b) hereof), in the following order of priority:

(i) The Company shall have the first right to purchase any Target Shares (as defined below). In the event the Company elects not to exercise first refusal rights with respect to all or any portion of such Target Shares, the Company agrees to waive such rights with respect to such portion of Target Shares in favor of Highland Capital's first refusal rights under this Agreement.

(ii) If the Company waives its first refusal rights pursuant to Section 1.2(a)(i), Highland Capital shall have the next right to purchase any remaining Target Shares. HCMLP, in its sole discretion, shall have the right to assign and apportion the rights of first refusal hereby granted among itself and investment funds comprising Highland Capital, which need not be Stockholders or parties to this Agreement at that time, in any proportion it deems suitable (the actual participants, including any individuals or entities assigned such rights, each being a "**Highland ROFR Participant**" and, together with the Company, each a "**ROFR Participant**"); *provided* that each such Highland ROFR Participant is an "**accredited investor**" within the meaning of Rule 501 of Regulation D of the Securities Act; and provided further that any Highland ROFR Participant that is not then a party to this Agreement shall be required to become a party to this Agreement by executing an Adoption Agreement in the form attached hereto as Exhibit A. In the event that HCMLP does not specify an allocation for ROFR Participants, then each Highland Capital Stockholder shall have the right to purchase up to that number of remaining Target Shares equal to the product of (A) the number of remaining Target Shares multiplied by (B) a fraction, (x) the numerator of which shall be the number of shares of Common Stock owned by such Highland Capital Stockholder (assuming full conversion and exercise of all convertible and exercisable securities into Common Stock held by such Highland Capital Stockholder) and (y) the denominator of which shall be the number of shares of Common Stock owned by all of the Highland Capital Stockholders (assuming full conversion and exercise of all convertible and exercisable securities into Common Stock).

(iii) In the event that HCMLP (or the Highland ROFR Participants as its designated assignee(s)) elects not to exercise first refusal rights with respect to all or any portion of such Target Shares, Highland Capital agrees to waive such rights with respect to such portion.

(b) Notice of Intended Disposition. In the event a Remaining Stockholder desires to accept a written, bona fide third-party offer for the transfer of any or all of the Securities held by such Remaining Stockholder (in such capacity such Remaining Stockholder shall be referred to as a "**Selling Stockholder**" and the shares subject to such offer to be referred to as the "**Target Shares**"), the Selling Stockholder shall promptly deliver to the Company and HCMLP written notice of the intended disposition ("**Disposition Notice**") and the basic terms and conditions thereof, including the identity of the proposed purchaser.

(c) Exercise of First Refusal Right. The Company shall, for a period of thirty (30) days following receipt of the Disposition Notice, have the right to purchase all or any portion of the Target Shares:

(i) The Company's right shall be exercisable by written notice (the "**Exercise Notice**") delivered to the Selling Stockholder and HCMLP prior to the expiration of the thirty (30) day exercise period. If such right is exercised with respect to all the Target Shares specified in the Disposition Notice, then the Company shall effect the purchase of such Target Shares, including payment of the purchase price, not more than five (5) business days after the delivery of the Exercise Notice. At such time, the Selling Stockholder shall deliver to the Company the certificates representing the Target Shares to be purchased, each certificate to be properly endorsed for transfer.

(ii) Alternatively, if the Company exercises such rights with respect to only a portion of the Target Shares specified in the Disposition Notice, the Company shall notify HCMLP of its intent to purchase only a portion of the Target Shares within the thirty (30) day exercise period above defined. The Company's purchase of such Target Shares shall be consummated at the time of HCMLP's exercise of its purchase rights in accordance with Section 1.2(e) hereof, if such rights are exercised. In the event HCMLP does not elect to purchase any of the remaining Target Shares, the Company's purchase of that portion of the Target Shares that it desires to purchase shall be consummated not more than five (5) business days after the date of expiration of HCMLP's first refusal right. The purchasing party under this Section 1.2 is referred to herein as the "**ROFR Purchaser.**"

(iii) Should the purchase price specified in the Disposition Notice be payable in property other than cash or evidences of indebtedness, the ROFR Purchaser shall have the right to pay the purchase price in the form of cash equal in amount to the value of such property. If the Selling Stockholder and the ROFR Purchaser cannot agree on such cash value within fifteen (15) days after receipt of the Disposition Notice (or, in the event HCMLP is the ROFR Purchaser, within fifteen (15) days after the Company's waiver of its first refusal rights hereunder, the valuation shall be determined by the Company's Board of Directors (the "**Board**") in its good faith discretion. The closing shall then be held on the later of (A) the fifth business day following the delivery of the Exercise Notice, or (B) the fifth business day after such cash valuation shall have been made.

(d) Non-Exercise of Right by the Company. In the event the Exercise Notice is not given to the Selling Stockholder and HCMLP within thirty (30) days following the date of the Company's receipt of the Disposition Notice, the Company shall be deemed to have waived its right of first refusal with respect to such proposed disposition.

(e) Exercise of Right by HCMLP. Subject to the rights of the Company, for a period ending on the earlier of (a) sixty (60) days following receipt of the Disposition Notice or (b) thirty (30) days following receipt of written notice of the Company's election either to waive its right of first refusal or to purchase only a portion of the Target Shares, HCMLP (and/or its designee(s) as provided in Section 1.2(a)(a)(ii)) shall have the right to purchase all, or any portion of the remaining balance after the Company's purchase, of the Target Shares, upon the terms and conditions specified in the Disposition Notice. The Highland ROFR Participants shall

exercise this right of first refusal in the same manner and subject to the same rights and conditions as the Company, as more specifically set forth in Section 1.2(c) above.

(f) Non-Exercise of Right by HCMLP: Subsequent Sales, Void Transfers. In the event an Exercise Notice with respect to all of the Target Shares is not given to the Selling Stockholder by the Company and/or HCMLP within sixty (60) days following the date of receipt of the Disposition Notice, the Selling Stockholder shall have a period of sixty (60) days thereafter in which to sell the portion of the Target Shares that the ROFR Participants have not elected to purchase upon terms and conditions (including the purchase price and the form of consideration therefor) no more favorable to the third-party transferee than those specified in the Disposition Notice; *provided, however*, that the Selling Stockholder must first offer the Target Shares for co-sale pursuant to Section 1.3 hereof. Any transfer in violation of this Section 1.2 shall be void. Such transferred Securities shall remain “*Securities*” hereunder, and such transferee shall be treated as a “*Stockholder*” for the purposes of this Agreement, in the capacity of Highland Capital or a Remaining Stockholder, as applicable. In the event the Selling Stockholder does not notify the Company or consummate the sale or disposition of the Target Shares within such sixty (60) day period, HCMLP’s and the Company’s first refusal rights shall continue to be applicable to any subsequent disposition of the Target Shares by the Selling Stockholder until such right lapses or terminates in accordance with Section 6.1 hereof.

(g) Violation of First Refusal Right. If any Selling Stockholder becomes obligated to sell any Target Shares to the Company or HCMLP (and/or its designee(s) as provided in Section 1.2(a)(ii)) under this Agreement and fails to deliver such Target Shares in accordance with the terms of this Agreement, the Company and/or HCMLP (and/or its designee(s) as provided in Section 1.2(a)(ii)) may, at its option, in addition to all other remedies it may have, send to such Selling Stockholder the purchase price for such Target Shares as is herein specified and transfer to the name of the Company or HCMLP (and/or its designee(s) as provided in Section 1.2(a)(ii)) (or request that the Company effect such transfer in the name of HCMLP (and/or its designee(s) as provided in Section 1.2(a)(ii)) on the Company’s books the certificate or certificates representing the Target Shares to be sold. Such Selling Stockholder shall also reimburse HCMLP and each ROFR Participant for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of the ROFR Participants’ rights under this Section 1.3.

(h) Application of Co-Sale Right. Notwithstanding anything to the contrary in this Section 1.2 Target Shares may be sold to a third party transferee (other than the Company or Highland Capital) if and only if the Selling Stockholder first complies with the co-sale procedures set forth in Section 1.3, and some or all of the Target Shares remain available for sale following the application of Section 1.3.

Section 1.3 Co-Sale Rights.

(a) Notice of Offer. The provisions of Section 1.2(b) requiring the Selling Stockholder to give notice of any intended transfer of the Securities are incorporated in this Section 1.3.

(b) Grant of Co-Sale Rights.

(i) If (i) any such proposed disposition of Target Shares is being made by the Selling Stockholder and (ii) the rights of first refusal of the Company and HCMLP have been waived or have lapsed, in full or in part with respect to such proposed disposition, the Co-Sale Participant (as defined herein) shall have the right, exercisable upon written notice to the Selling Stockholder within thirty (30) days after receipt of the Disposition Notice, to participate in such sale of the Target Shares on the same terms and conditions as those set forth in the Disposition Notice. As used herein, “*Co-Sale Participant*” shall mean (x) in the event Highland Capital holds or otherwise controls a majority of the issued and outstanding shares of Common Stock of the Company, the Highland Capital entities designated by HCMLP as provided below, or (y) in the event Highland Capital does not hold or otherwise control a majority of the issued and outstanding shares of Common Stock of the Company, each non-Selling Stockholder. To the extent any Co-Sale Participant exercises such right of participation, the number of shares of Target Shares that the Selling Stockholder may sell in the transaction shall be correspondingly reduced. The right of participation of the Co-Sale Participants shall be subject to the terms and conditions set forth in this Section 1.3.

(ii) Each Co-Sale Participant may sell all or any part of a number of shares of the capital stock of the Company held by such Co-Sale Participant equal to the product obtained by multiplying (i) the aggregate number of Target Shares covered by the Disposition Notice that neither the Company nor Highland Capital have elected to purchase pursuant to Section 1.2 by (ii) a fraction, the numerator of which is the number of shares of Common Stock of the Company at the time owned by such Co-Sale Participant (assuming for the purposes of this calculation that all shares held by Highland Capital are held by HCMLP) and the denominator of which is the combined number of shares of Common Stock of the Company at the time deemed owned by the Selling Stockholder and all of the Co-Sale Participants that desire to exercise their rights of co-sale. Notwithstanding the foregoing, HCMLP, in its sole discretion, shall have the right to assign and apportion the rights of first refusal hereby granted among itself and investment funds comprising Highland Capital, which need not be Stockholders or parties to this Agreement at that time, in any proportion it deems suitable; *provided* that each such Highland Capital Co-Sale Participant is an “*accredited investor*” within the meaning of Rule 501 of Regulation D of the Securities Act; and provided further that any Highland Capital Co-Sale Participant that is not then a party to this Agreement shall be required to become a party to this Agreement by executing an Adoption Agreement in the form attached hereto as Exhibit A.

(iii) Each Co-Sale Participant may effect its participation in the sale by delivering to the Selling Stockholder for transfer to the purchase offeror one or more certificates, properly endorsed for transfer, which represent the number of shares of Common Stock that it elects to sell pursuant to this Section 1.3(h).

(c) Payment of Proceeds. The stock certificates that the Co-Sale Participants deliver to the Selling Stockholder pursuant to Section 1.3(b) shall be transferred by the Selling Stockholder to the purchase offeror in consummation of the sale of the Common Stock pursuant to the terms and conditions specified in the notice to the Company and HCMLP (and, if applicable, the Remaining Stockholders) pursuant to Section 1.2(b), and the Selling Stockholder shall promptly thereafter remit to the Co-Sale Participants that portion of the sale proceeds to

which the Investors are entitled by reason of their participation in such sale. To the extent that any prospective purchaser or purchasers refuses to purchase shares or other securities from an Co-Sale Participant exercising its rights of co-sale hereunder, the Selling Stockholder shall not sell to such prospective purchaser or purchasers any Securities unless and until, simultaneously with such sale, the Selling Stockholder purchases such shares or other securities from such Co-Sale Participant for the same consideration and on the same terms and conditions as the proposed transfer described in the Disposition Notice.

(d) Non-exercise. The exercise or non-exercise of the rights of the Co-Sale Participants hereunder to participate in one or more sales of Common Stock made by the Selling Stockholder shall not adversely affect their rights to participate in subsequent Common Stock sales by any Selling Stockholder.

(e) Violation of Co-Sale Right. If any Selling Stockholder purports to sell any Target Shares in contravention of this Section 1.3 (a “*Prohibited Transfer*”), each Co-Sale Participant may, in addition to such remedies as may be available by law, in equity or hereunder, require Selling Stockholder to purchase from such Co-Sale Participant the type and number of Securities that such Co-Sale Participant would have been entitled to sell under Section 1.3(b)(ii) had the Prohibited Transfer been effected pursuant to and in compliance with the terms of Section 1.3. The sale will be made on the same terms and subject to the same conditions as would have applied had the Selling Stockholder not made the Prohibited Transfer, except that the sale (including, without limitation, the delivery of the purchase price) must be made within ninety (90) days after the Co-Sale Participant learns of the Prohibited Transfer. Such Selling Stockholder shall also reimburse HCMLP and each Co-Sale Participant for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of the Co-Sale Participants’ rights under this Section 1.3.

Section 1.4 Market Stand-Off Agreement.

(a) In connection with any underwritten public offering by the Company of its equity securities pursuant to an effective registration statement filed under the Securities Act, including the first bona fide firm commitment underwritten public offering of the Company’s Common Stock registered under the Securities Act on Form S-1 or Form SB-2 (or any successor form designated by the SEC) (the “*Initial Public Offering*”), the Remaining Stockholders (each, an “*Owner*”) shall not (i) lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any securities of the Company, including (without limitation) shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock (whether now owned or hereafter acquired) or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any securities of the Company, including (without limitation) shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock (whether now owned or hereafter acquired), whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of securities, in cash or otherwise without the prior written consent of the Company or its underwriters; *provided* that all executive officers, directors and greater than 5% stockholders (including, if applicable, HCMLP

and Highland Capital) are subject to similar restrictions. Such restriction (the “*Market Stand-Off*”) shall be in effect for such period of time from and after the effective date of the final prospectus for the offering as may be requested by the Company or such underwriters. In no event, however, shall such period exceed one hundred eighty (180) days (the “*Lock-Up Period*”), and the Market Stand-Off shall in no event be applicable to any underwritten public offering effected more than two (2) years after the effective date of the Company’s initial public offering.

(b) Any new, substituted or additional securities which are by reason of any recapitalization or reorganization distributed with respect to the Common Stock to be registered shall be immediately subject to the Market Stand-Off, to the same extent the Common Stock is at such time covered by such provisions.

(c) In order to enforce the Market Stand-Off, the Company may impose stop-transfer instructions with respect to the Common Stock until the end of the applicable stand-off period.

ARTICLE II

RIGHTS OF FIRST OFFER

Section 2.1 Grant of Right of First Offer. Each time the Company proposes to offer (i) any shares of, or securities convertible into or exercisable for any shares of, any class of its capital stock (“*equity securities*”), or (ii) any debt securities (collectively, the “*First Offer Securities*”), the Company shall first offer to Highland Capital the right and opportunity (but not the obligation) to purchase the First Offer Securities proposed to be issued in such offering in accordance with the provisions of this Article IV. HCMLP, in its sole discretion, shall have the right to assign and apportion the rights of first refusal hereby granted among itself and investment funds comprising Highland Capital, which need not be parties to this Agreement at that time (the actual participants, including any individuals or entities assigned such rights, each being a “*Purchaser*”); *provided* that each such Purchaser is an “*accredited investor*” within the meaning of Rule 501 of Regulation D of the Securities Act; and *provided further* that any such Purchaser that is not then a party to this Agreement shall be required to become a party to this Agreement by executing an Adoption Agreement in the form attached hereto as Exhibit A.

Section 2.2 Procedure for Exercise. The Company shall deliver notice (the “*Offer Notice*”) to HCMLP stating (a) the number and description of the First Offer Securities to be offered in the applicable offering and (b) the price and terms, if any, upon which it proposes to offer such First Offer Securities. Within 30 days after giving of the Offer Notice, the Purchasers may elect to purchase, at the price and on the terms specified in the Offer Notice, such First Offer Securities, in the amounts designated by HCMLP. The Purchasers shall exercise the rights under this section by paying the purchase price for the First Offer Securities elected to be purchased in cash or by wire transfer of immediately available funds. As promptly as practicable on or after the purchase date, the Company shall issue and deliver to the Purchasers a certificate or certificates for the number of full shares or amount, whichever is applicable, of First Offer Securities.

Section 2.3 Excluded Issuances. The rights of first offer set forth in this section shall not be applicable to the following (collectively, the “*Excluded Issuances*”): (A) in the case of equity securities, (i) the issuance of shares of capital stock (or any cash-settled “phantom units” or similar equity-linked or equity-based incentive plans or agreement structures, the value of which is based on the Company’s Common Stock (collectively, “*phantom units*”)) of the Company issued or issuable solely for compensatory purposes, to directors, officers, employees or consultants of the Company, whether directly (as Common Stock, options or phantom units) or pursuant to an equity incentive plan or agreement or a restricted stock plan or agreement, in each case approved by the Board; (ii) the issuance of shares of capital stock of the Company in connection with stock splits, stock dividends, recapitalizations or the like; (iii) the issuance of shares of capital stock in connection with a bona fide business acquisition or license of technology of or by the Company, whether by license, merger, consolidation, sale of assets, sale or exchange of stock or otherwise that are not issued primarily for equity financing purposes, in each case as approved by the Board; (iv) the issuance of shares of capital stock of the Company in connection with corporate partnering transactions, business relationships and similar transactions that are not issued primarily for equity financing purposes, in each case as approved by the Board; or (v) the issuance of shares of capital stock to financial institutions in connection with bona fide Commercial Debt (as defined below) arrangements (including issuances, extensions, renewals, modifications and waivers), in each case approved by the Company’s Board of Directors; and (B) in the case of debt securities, shall not be deemed to include debt issued to NexBank, SSB and other banks, commercial finance lenders, insurance companies, leasing or equipment financing institutions or other lending institutions regularly engaged in the business of lending money (excluding venture capital, private equity, investment banking or similar institutions which sometimes engage in lending activities but which are primarily engaged in investments in equity securities), which is for money borrowed, or purchase or leasing of equipment in the case of lease or other equipment financing, whether or not secured, and in any such instance is not primarily for equity financing purposes (“*Commercial Debt*”), in each such case approved by the Board of Directors of the Company,

Section 2.4 Sale to Third Parties. The Company shall, after complying with its obligations under Section 2.1, be free at any time prior to 90 days after the date of the Offer Notice, to offer and sell to any third party or parties the remainder of such First Offer Securities proposed to be issued by the Company at a price and on payment terms no less favorable to the Company than those specified in the Offer Notice. However, if such third party sale or sales are not consummated within such 90-day period, or if the terms of any such proposed sale are modified in a manner more favorable to the proposed purchaser (whether with respect to price or any other term) than offered to HCMLP pursuant to Section 2.1, the Company shall not sell such First Offer Securities as shall not have been purchased within such period without again complying with Section 2.1 hereof.

ARTICLE III

REGISTRATION RIGHTS

Section 3.1 Definitions. For purposes of this Article III.

(a) “**Certificate of Incorporation**” shall mean the Company’s Certificate of Incorporation as in effect as of the date hereof and as amended and restated from time to time.

(b) “**Change in Control**” shall mean (A) the acquisition of the Company by means of any transaction or series of related transactions (including, without limitation, any stock purchase transaction, merger, consolidation or other form of reorganization in which outstanding shares of the Company are exchanged for securities or other consideration issued, or caused to be issued, by the acquiring entity or its subsidiary, but excluding (i) any transaction effected for the purpose of changing the Company’s jurisdiction of incorporation and (ii) the sale by the Company of shares of its capital stock to investors in bona fide equity financing transactions), unless securities representing more than fifty percent (50%) of the total combined voting power of the voting securities of the surviving or acquiring entity or its direct or indirect parent entity are immediately thereafter beneficially owned, directly or indirectly and in substantially the same proportion, by the Company’s stockholders of record as constituted immediately prior to such transaction or series of related transactions and (B) a sale of all or substantially all of the assets of the Company in a single transaction or series of related transactions. In no event shall any public offering of the Company’s securities be deemed to constitute a Change in Control.

(c) “**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended.

(d) “**Form S-3**” shall mean such form under the Securities Act as in effect on the date hereof or any registration forms under the Securities Act subsequently adopted by the SEC that permit inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC.

(e) “**Holder**” shall mean any person owning or having the right to acquire Registrable Securities or any assignee thereof in accordance with Section 3.13 hereof.

(f) The terms “**register**,” “**registered**” and “**registration**” refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the Securities Act, and the declaration or ordering of effectiveness of such registration statement or document.

(g) “**Registrable Securities**” shall mean, only with respect to equity securities held by Highland Capital, the Common Stock and any shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of such shares; excluding in all cases, however, any Registrable Securities sold by a Holder in a transaction in which his rights under this Article III are not assigned.

(h) The number of shares of “**Registrable Securities then outstanding**” shall be equal to the number of shares of Common Stock then issued and outstanding which are, and the number of shares of Common Stock then issuable pursuant to then exercisable or convertible securities which are, Registrable Securities.

(i) “**Rule 144**” means Rule 144 as promulgated by the SEC under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the SEC.

(j) “**Rule 145**” means Rule 145 as promulgated by the SEC under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the SEC.

Section 3.2 Request for Registration.

(a) At any time, HCMLP, on behalf of Highland Capital, may request that the Company effect a registration under the Securities Act of all or any part of the Registrable Securities held by Highland Capital (each, a “**Demand Registration**”), subject to the terms and conditions of this Agreement. Any request (a “**Registration Request**”) for a Demand Registration shall specify (A) the approximate number of shares of Registrable Securities requested to be registered and (B) the intended method of distribution of such shares. Within twenty (20) days of the receipt of the Registration Request, the Company will use its best efforts to effect as soon as practicable (and in any event within ninety (90) days of the date such request is given) the registration under the Securities Act requested and will include in such registration all shares of Registrable Securities that holders of Registrable Securities request the Company to include in such registration by written notice given to the Company within twenty (20) days after the Company’s sends such notice (subject to underwriter cut-backs as provided in this Agreement).

(b) Without the prior written consent of HCMLP, the Company will not include in any Demand Registration any securities other than (a) Registrable Securities, (b) shares of stock pursuant to Section 3.3 hereof, and (c) securities to be registered for offering and sale on behalf of the Company. If the managing underwriter(s) advise the Company in writing that in their opinion the number of shares of Registrable Securities and, if permitted hereunder, other securities in such offering, exceeds the number of shares of Registrable Securities and other securities, if any, which can be sold in an orderly manner in such offering within a price range acceptable to the holders of a majority of the shares of Registrable Securities held by Holders initially requesting registration, the Company will include in such registration, prior to the inclusion of any securities which are not shares of Registrable Securities, the number of shares of Registrable Securities requested to be included that in the opinion of such underwriters can be sold in an orderly manner within the price range acceptable to the Holders of a majority of the shares of Registrable Securities initially requesting registration, subject to the following order of priority: (A) first, the securities requested to be included therein by the Holders, pro rata among the holders thereof on the basis of the number of shares of Registrable Securities such holders requested to be included in such registration or apportioned among them in any other manner in which HCMLP determines to be appropriate in its sole discretion; (B) second, the securities requested to be included therein by the Company; and (C) third, among persons not contractually entitled to registration rights under this Agreement.

(c) If HCMLP indicates that the Holders on whose behalf it is initiating the Registration Request hereunder (the “**Initiating Holders**”) intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Section 3.2 and the Company shall include

such information in the written notice referred to in Section 3.2. The underwriter will be selected by HCMLP and shall be reasonably acceptable to the Board, which approval shall not be unreasonably withheld, conditioned or delayed. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 3.4(e)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting.

(d) Notwithstanding the foregoing, if the Company shall furnish to HCMLP a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors of the Company it would be seriously detrimental to the Company and its stockholders for such registration statement to be filed and it is, therefore, essential to defer the filing of such registration statement, the Company shall have the right to defer taking action with respect to such filing for a period of not more than one hundred twenty (120) days after receipt of the request of the Initiating Holders; *provided, however*, that the Company may not utilize this right more than once in any twelve (12) month period.

(e) In addition, the Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to this Section 3.2:

(i) after the Company has effected three (3) Demand Registrations pursuant to this Section 3.2 and such registrations have been declared or ordered effective;

(ii) during the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of filing of, and ending on a date one hundred eighty (180) days after the effective date of, a registration subject to Section 3.3 or Section 3.11 hereof, provided that the Company is actively employing its commercially reasonable efforts to cause such registration statement to become effective; *provided, however*, that the Company may not utilize this right more than once in any twelve-month period;

(iii) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 3.11 below; or

(iv) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act.

Section 3.3 Company Registration.

(a) If, but without any obligation to do so, the Company proposes to register (including for this purpose a registration initiated by the Company for itself or for the Holders or stockholders other than the Holders) any of its stock or other securities under the Securities Act in connection with the public offering of such securities solely for cash (other than a registration relating solely to employee benefit plans, or a registration relating solely to a SEC Rule 145 transaction, or a registration on any registration form which does not permit secondary sales or does not include substantially the same information as would be required to be included in a registration statement covering the Registrable Securities) the Company shall, at such time,

promptly give each Holder written notice of such registration. Upon the written request of HCMLP given within fifteen (15) days after delivery of such notice by the Company, the Company shall cause to be registered under the Securities Act all of the Registrable Securities that HCMLP has requested to be registered on behalf of Highland Capital.

(b) If a registration subject to Section 3.3 relates to an underwritten public offering of equity securities and the managing underwriters advise the Company that in their opinion the number of securities requested to be included in such registration exceeds the number that can be sold in an orderly manner in such offering within a price range acceptable to the Holders initially requesting such registration, the Company will include in such registration (i) first, the Registrable Securities requested to be included in such registration by Highland Capital, allocated pro rata among the holders thereof on the basis of the total number of shares of Registrable Securities such Holder requested to be included in such registration or apportioned among them in any other manner in which HCMLP determines to be appropriate in its sole discretion; (ii) second, the securities requested to be included therein by the Company if the Company has initiated the registration; and (iii) third, among persons not contractually entitled to registration rights under this Agreement. Notwithstanding the foregoing, the amount of Registrable Securities of Highland Capital included in the offering shall not be reduced below thirty percent (30%) of the total amount of securities included in such offering. In connection with any offering involving an underwriting of shares of the Company's capital stock, the Company shall not be required to include any of the Holders' securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters selected by it (or by other persons entitled to select the underwriters). All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 3.4(e)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting.

Section 3.4 Obligations of the Company. Whenever required under this Article III to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its commercially reasonable efforts to cause such registration statement to become effective within sixty (60) days of a request for registration pursuant to Section 3.2 and Section 3.11 and such registration statement shall remain effective until the earlier to occur of (i) one-hundred-eighty (180) days after the date such registration statement was declared effective or (ii) until the distribution contemplated in such registration statement has been completed; *provided, however*, that such one-hundred-eighty (180) day period shall be extended for a period of time equal to the period the Holder refrains from selling any securities included in such registration at the request of an underwriter of Common Stock (or other securities) of the Company.

(b) Prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement.

(c) Furnish to the Holders such numbers of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(d) Use its best efforts to register and qualify the securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions as shall be reasonably requested by the Holders; *provided* that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(e) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

(f) Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein of misleading in the light of the circumstances then existing.

(g) Cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange or nationally recognized quotation system on which similar securities issued by the Company are then listed.

(h) Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities not later than the effective date of such registration.

(i) Use its best efforts to cause to be furnished, at the request of at least a majority of the Holders participating in the registration, on the date that such Registrable Securities are delivered to the underwriters for sale, if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the date that the registration statement with respect to such securities becomes effective, (i) an opinion, dated such date, of the counsel representing the Company for purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters, if any, and (ii) a letter dated such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in connection with an underwritten public offering, addressed to the underwriters, if any.

(j) Make available for inspection by each Holder of Registrable Securities, any underwriter and any attorney, accountant, or other agent retained by such Holder or underwriter, all financial and other records, pertinent corporate documents and properties of the Company and cause the Company's officers, directors, and employees to supply all information

reasonably requested by such Holder, underwriter, attorney, accountant, or agent in connection with such registration statement.

Section 3.5 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Article III with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding such Holder, the Registrable Securities held by such Holder, and the intended method of disposition of such securities as shall be required by the Company or the managing underwriters, if any, to effect the registration of such Holder's Registrable Securities.

Section 3.6 Expenses of Demand Registration. All expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Section 3.2(a), including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of counsel for the selling Holders shall be borne by the Company, including, without limitation, all such expenses incurred with respect to a registration request subsequently withdrawn by the Holders, regardless of whether such withdrawal was a result of a material adverse change in the condition (financial or otherwise), business or prospects of the Company from that known to the Holders at the time of the request or otherwise.

Section 3.7 Expenses of Company Registration. All expenses, other than underwriting discounts and commissions relating to Registrable Securities, incurred in connection with registrations, filings or qualifications pursuant to Section 3.3 for each Holder, including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of counsel for the selling Holders shall be borne by the Company.

Section 3.8 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Article III.

Section 3.9 Indemnification. In the event any Registrable Securities are included in a registration statement under this Article III:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, the partners, members, officers, and directors of each Holder (including HCMLP), any underwriter (as defined in the Securities Act) for such Holder and each person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereto) arise out of or are based upon any of the following statements, omissions or violations (each, a "**Violation**"): (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act, the

Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law; and the Company will pay to each such Holder, underwriter or controlling person, as incurred, any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however*, that the indemnity agreement contained in this Section 3.9(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability, or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed), nor shall the Company be liable in any such case for any such loss, claim, damage, liability, or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished by any such Holder, underwriter or controlling person expressly for use in connection with such registration.

(b) To the extent permitted by law, each selling Holder will indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each person, if any, who controls the Company within the meaning of the Securities Act, any underwriter, any other Holder selling securities in such registration statement and any controlling person of any such underwriter or other Holder, against any losses, claims, damages, or liabilities (joint or several) to which any of the foregoing persons may become subject, under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder expressly for use in connection with such registration; and each such Holder will pay, as incurred, any legal or other expenses reasonably incurred by any person intended to be indemnified pursuant to this Section 3.9(b), in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however*, that the indemnity agreement contained in this Section 3.9(b), shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder (which consent shall not be unreasonably withheld, conditioned or delayed); *provided, however*, that in no event shall any indemnity under this Section 3.9(b) exceed the net proceeds from the offering received by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 3.9 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 3.9, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; *provided, however*, that an indemnified party (together with all other indemnified parties which may be represented without conflict by one counsel) shall have the right to retain separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if materially prejudicial to its ability

to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 3.9, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 3.9.

(d) If the indemnification provided for in this Section 3.9 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage, or expense referred to therein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other hand in connection with the statements or omissions that resulted in such loss, liability, claim, damage, or expense as well as any other relevant equitable considerations; *provided, however*, that in no event shall any contribution under this Section 3.9 exceed the net proceeds from the offering received by such Holder. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control as to any Investor that is a party thereto.

(f) The obligations of the Company and Holders under this Section 3.9 shall survive the completion of any offering of Registrable Securities in a registration statement under this Article III, and otherwise. No indemnifying party, in the defense of any such claim or litigation, shall, except with the consent of each other indemnified party, consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

Section 3.10 Reports Under Securities Exchange Act. With a view to making available to the Holders the benefits of Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144, at all times after the effective date of the first registration statement filed by the Company for the offering of its securities to the general public;

(b) take such action, including the voluntary registration of its Common Stock under Section 5.12 of the Exchange Act, as is necessary to enable the Holders to utilize Form S-3 for the sale of their Registrable Securities, such action to be taken as soon as practicable after the

end of the fiscal year in which the first registration statement filed by the Company for the offering of its securities to the general public is declared effective;

(c) file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act; and

(d) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request from such Holder (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144 (at any time after 90 days after the effective date of the first registration statement filed by the Company), the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC which permits the selling of any such securities without registration or pursuant to Form S-3.

Section 3.11 Form S-3 Registrations. In the event that the Company shall receive from HCMLP on behalf of the Holders of at least 10% of the Registrable Securities then outstanding a written request that the Company effect a registration on Form S-3, and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, the Company will:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Holders; and

(b) use its commercially reasonable efforts to, as soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holder's or Holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within fifteen (15) days after receipt of such written notice from the Company; *provided, however*, that the Company shall not be obligated to effect any such registration, qualification or compliance, pursuant to this Section 3.11:

(i) if Form S-3 is not available for such offering by the Holders;

(ii) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such Form S-3, propose to sell Registrable Securities at an aggregate price to the public (net of underwriting discounts and commissions) of less than \$500,000;

(iii) if the Company shall furnish to Holders requesting a registration statement pursuant to this Section 3.11 a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors it would be seriously detrimental to the Company and its stockholders for such registration statement to be filed and it is, therefore, essential to defer the filing of such registration statement, the Company shall have the right to defer taking action with respect to such filing for a period of not more than one-hundred-

twenty (20) days after receipt of the request of the Initiating Holders; *provided, however*, that the Company may not utilize this right more than once in any twelve (12) month period;

(iv) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance;

(v) if the Company has, within the twelve (12) month period preceding the date of such request, already effected one (1) registration on Form S-3 for the Holders pursuant to this Section 3.11; or

(vi) during the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of filing of, and ending on a date one-hundred-eighty (180) days after the effective date of, any registration statement pertaining to a public offering of securities for the Company's account; *provided, however*, that the Company is actively employing its commercially reasonable efforts to cause such registration statement to be effective.

(c) Subject to the foregoing, the Company shall file a registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable after receipt of the request or requests of the Holders. All expenses incurred in connection with a registration requested pursuant to this Section 3.11, including, without limitation, all registration, filing, qualification, printer's and accounting fees and the reasonable fees and disbursements of counsel for the selling Holder or Holders and counsel for the Company, shall be borne by the Company. Registrations effected pursuant to this Section 3.11 shall not be counted as demands for registration or registrations effected pursuant to Section 3.2 or Section 3.3, respectively.

(d) If the Holders initiating a registration pursuant to this Section 3.11 intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 3.11 and the Company shall include such information in the written notice referred to in Section 3.11(a). The underwriter will be selected by HCMLP and shall be reasonably acceptable to the Company, which approval shall not be unreasonably withheld or delayed. In such event, the right of any Holder to include such Holder's Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 3.4(e)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting. Notwithstanding any other provision of this Section 3.11, if the underwriter advises the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Holders of Registrable Securities which would otherwise be underwritten pursuant hereto, and the number of shares of Registrable Securities that may be included in the underwriting shall be allocated in the following order of priority: (A) first, the Registrable Securities requested to be included in such registration by the Holders, allocated pro

rata among the holders thereof on the basis of the total number of shares of Registrable Securities such Holder requested to be included in such registration or apportioned among them in any other manner in which HCMLP determines to be appropriate in its sole discretion; (B) second, the securities requested to be included therein by the Company; and (C) third, among persons not contractually entitled to registration rights under this Agreement.

Section 3.12 Expenses of Form 5-3 Registration. All expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Section 3.11, including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of counsel for the selling Holders shall be borne by the Company; including, without limitation, all such expenses incurred with respect to a registration request subsequently withdrawn by the Holders, regardless of whether such withdrawal was a result of a material adverse change in the condition (financial or otherwise), business or prospects of the Company from that known to the Holders at the time of the request or otherwise.

Section 3.13 Assignment of Registration Rights. Subject to the prior consent of HCMLP, the rights to cause the Company to register Registrable Securities pursuant to this Article III may be assigned (but only with all related obligations) by a Holder to a transferee or assignee of such securities that (i) is a subsidiary, parent, member, partner, limited partner, retired partner, grantor or shareholder of a Holder, and (ii) an affiliate of HCMLP, including any investment funds controlled by or under common control with, or managed directly or indirectly by, HCMLP, which will continue to qualify as Highland Capital after such transfer; *provided* that: (a) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned; (b) such transferee or assignee agrees in writing to be bound by and subject to the terms and conditions of this Agreement, including (without limitation) the provisions of Section 1.4 below, including the execution of an Adoption Agreement in the form attached hereto as Exhibit A; and (c) such assignment shall be effective only if immediately following such transfer the further disposition of such securities by the transferee or assignee is restricted under the Securities Act. For the purposes of determining the number of shares of Registrable Securities held by a transferee or assignee, the holdings of transferees and assignees of a partnership who are partners or retired partners of such partnership (including spouses and ancestors, lineal descendants and siblings of such partners or spouses who acquire Registrable Securities by gift, will or intestate succession) shall be aggregated together and with the partnership; *provided* that all assignees and transferees who would not qualify individually for assignment of registration rights shall have a single attorney-in-fact for the purpose of exercising any rights, receiving notices or taking any action under this Article III.

Section 3.14 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of HCMLP (which approval may be granted or withheld in its sole discretion), enter into any agreement with any holder or prospective holder of any securities of the Company (i) to include such securities in any registration filed under Section 3.2, unless under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that the inclusion of such holder's or prospective holder's securities will not reduce the amount of the

Registrable Securities of the Holders which is included or (ii) to make a demand registration that could result in such registration statement being declared effective prior to the dates set forth in Section 3.2 or within one-hundred-eighty (180) days of the effective date of any registration effected pursuant to Section 3.2.

ARTICLE IV

VOTING AGREEMENT; BOARD OF DIRECTORS; REQUIRED VOTE

Section 4.1 Board of Directors.

(a) Composition of Board of Directors. For so long as Highland Capital owns any shares of the Company's capital stock, each Stockholder agrees that in any election of directors of the Company, each Stockholder shall vote all shares of the Company capital stock entitled to vote in the election of directors that are owned or controlled by such Stockholder (or shall consent pursuant to an action by written consent of the holders of capital stock of the Company), including all shares that each Stockholder is entitled to vote under any voting trust, voting agreement, proxy or other arrangement (collectively, "*Stock*"), to elect a Board of Directors consisting of the directors designated by HCMLP in its sole discretion. In the absence of any designation HCMLP, the director previously designated by HCMLP and then serving shall be re-elected if still eligible to serve as provided herein. This Section 4.1(a) shall not apply to Crusader.

(b) Subsidiary Governing Bodies; Committees. Unless otherwise agreed to by HCMLP or the Board of Directors, the members of the Board of Directors, as the same shall be constituted from time to time, shall also constitute the board of directors or equivalent governing body of each subsidiary of the Company. HCMLP shall have the right but not the obligation to designate at least two members of the Board of Directors elected pursuant to this Section 4.1 to serve on any duly constituted committee of the boards of directors of the Company and any subsidiaries.

(c) Obligations of the Company. The Company shall use its best efforts and shall exercise all authority under applicable law to cause to be nominated for election and cause to be elected or appointed, as the case may be, as directors of the Company, a slate of directors consisting of individuals meeting the requirements of Section 4.1(a). The Company will not, by any voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all of the provisions of this Agreement and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of HCMLP hereunder against impairment. Each Stockholder hereby agrees to vote, cause to be voted or sign a written consent with respect to all of its shares in favor of a slate of directors consisting of individuals meeting the requirements of Section 4.1(a).

(d) Vacancies; Removal. In the event of any vacancy in the Board of Directors, each Stockholder agrees to vote all outstanding shares of Stock owned or controlled by such Stockholder and to use such Stockholder's best efforts to fill such vacancy so that the Board of Directors will be comprised of directors designated as provided in Section 4.1(a). Each

Stockholder agrees to vote all outstanding shares of Stock owned or controlled by such Stockholder for the removal of a director whenever (but only whenever) there shall be presented to the Board of Directors the written direction that such director be removed, signed by HCMLP. In such event, the Board of Directors shall solicit the vote of the Stockholders entitled to remove such director in order to effect such removal. This Section 4.1(d) shall not apply to Crusader.

Section 4.2 Required Vote.

(a) **Notice of Disposition Transaction.** In the event HCMLP has approved or rejected any (A) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation) unless the Company's stockholders of record as constituted immediately prior to such acquisition or sale will, immediately after such acquisition or sale (by virtue of securities issued as consideration for the Company's acquisition or sale or otherwise) hold at least 50% of the voting power of the surviving or acquiring entity; or (B) a sale of all or substantially all of the assets of the Company, including a sale of all or substantially all of the assets of the Company's subsidiaries, if such assets constitute substantially all of the assets of the Company and such subsidiaries taken as a whole (each, an "**Approved Sale**"), the Company shall give notice (the "**Sale Notice**") to the Stockholders stating that HCMLP has approved or rejected, as applicable, an Approved Sale. The Sale Notice also shall set forth the identity of the person or entity proposing to buy the Company, its assets or its capital stock (the "**Acquisition Offeror**") and shall summarize the basic terms of the proposed Approved Sale. Any Sale Notice may be rescinded by HCMLP by delivering written notice thereof to the Stockholders.

(b) **Obligations of Stockholders.** As soon as practicable after receipt of the Sale Notice, the Stockholders shall take all lawful action reasonably necessary and requested by the Company (i) in the event the Approved Sale was approved by HCMLP, to complete the Approved Sale, including without limitation (A) the voting of all capital stock of the Company held by the Stockholders in favor of the Approved Sale, (B) if so requested, the surrender to the Acquisition Offeror of certificates representing all capital stock and all instruments representing convertible securities of the Company held by the Stockholders, properly endorsed for transfer to the Acquisition Offeror against payment of the sale price for such capital stock or such convertible securities in the Approved Sale, and (C) the execution of all sale, liquidation and other agreements in the form reasonably requested (containing, among other things, reasonable and customary representations and warranties relating to the valid title to such capital stock free and clear of any liens, claims, encumbrances and restrictions of any kind (other than those arising hereunder) and such Stockholder's power, authority, and right to enter into and consummate such purchase or merger agreement without violating any other agreement); or (ii) in the event the Approved Sale was rejected by HCMLP, to reject the Approved Sale, including, without limitation, the voting of all capital stock of the Company held by the Stockholders against the Approved Sale. The Stockholders hereby agree, after having received a Sale Notice, not to exercise any dissenter's rights or other rights granted to minority stockholders under state law in connection with an Approved Sale, or otherwise take actions designed to or that reasonably would be expected to complicate, delay, reject or terminate the Approved Sale.

Section 4.3 Grant of Proxy. To ensure the performance of each Stockholder with respect to the agreements set forth in this Article IV, each Stockholder hereby appoints the

Chairman of the Board of Directors and the principal executive officer of the Company, or either of them from time to time, or their designees, as his, her or its true and lawful proxy and attorney-in-fact, with full power of substitution and resubstitution, to vote all. Stock owned or held by such Stockholder and to execute all appropriate instruments consistent with this Agreement, subject to the provisions of this Agreement, upon any matter presented to the stockholders of the Company, if and only if such Stockholder fails to vote all of such Stockholder's Stock or execute such other instruments in accordance with the provisions of this Agreement within five (5) days of the Company's or any other party's written request for such Stockholder's written consent or signature. The proxies and powers granted by each Stockholder pursuant to this Section 4.3 are coupled with an interest, are given to secure the performance of such Stockholder's commitments under this Agreement, and shall be irrevocable unless and until this Agreement terminates or expires pursuant to its terms. Such proxies shall survive the death, incompetence, disability, merger, reorganization, dissolution or winding up of such Stockholder. Each party hereto hereby revokes any and all previous proxies with respect to the Stock and shall not hereafter, unless and until this Agreement terminates or expires, purport to grant any other proxy or power of attorney with respect to any of the Stock, deposit any of the Stock into a voting trust or enter into any agreement (other than this Agreement), arrangement or understanding with any person, directly or indirectly, to vote, grant any proxy or give instructions with respect to the voting of any of the Stock, in each case, with respect to any of the matters set forth herein.

ARTICLE V

COVENANTS OF THE COMPANY

Section 5.1 Delivery of Financial Statements. The Company shall deliver the following information to HCMLP, to each Highland Capital Stockholder and to Crusader:

(a) as soon as reasonably practicable, but in any event within 90 days after the end of each fiscal year of the Company (which due date may be lengthened with respect to any fiscal year by approval of HCMLP), an audited consolidated income statement of the Company for such year, an audited consolidated balance sheet and statement of stockholders' equity of the Company as of the end of such fiscal year, and an audited consolidated statement of cash flows of the Company for such fiscal year, such audited year-end financial reports to be in reasonable detail, prepared in accordance with generally accepted accounting principles ("**GAAP**") consistently applied and setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail. Such audited financial statements shall be accompanied by a report and opinion thereon by independent public accountants of national standing selected by HCMLP.

(b) as soon as reasonably practicable, but in any event within thirty (30) days after the end of each fiscal quarter of the Company, an unaudited consolidated income statement and consolidated statement of cash flows of the Company for such fiscal quarter and an unaudited consolidated balance sheet of the Company as of the end of such fiscal quarter, prepared in accordance with GAAP, which shall each show a comparison to plan figures for such period and to the comparable period in the prior year prepared in accordance with GAAP with the exception that no notes need be attached to such statements and year end audit adjustments

need not have been made, together with a report from the Company's chief executive officer, and/or chief financial officer, summarizing the Company's consolidated financial condition and consolidated results of operation during such quarter.

(c) as soon as reasonably practicable, but in any event within twenty (20) days after the end of each calendar month, an unaudited consolidated income statement and consolidated statement of cash flows of the Company for such month and an unaudited consolidated balance sheet of the Company as of the end of such month and for the current fiscal year to date, including a comparison to plan figures for such period and to the comparable period in the prior year, prepared in accordance with GAAP consistently applied, with the exception that no notes need be attached to such statements and year end audit adjustments may not have been made, together with a report from the Company's chief executive officer, and/or chief financial officer, summarizing the Company's consolidated financial condition and consolidated results of operation during such month.

(d) an annual budget and operating plans for the Company at least thirty (30) days prior to the beginning of each fiscal year and (promptly after they are available) any subsequent substantive revisions thereto; and

(e) such relevant business and other information reasonably requested, including, without limitation, copies of relevant management reports, as HCMLP may request from time to time.

If, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

Section 5.2 Inspection. The Company will maintain true books and records of account in which full and correct entries will be made of all its business transactions pursuant to a system of accounting established and administered in accordance with GAAP consistently applied, and will set aside on its books all such proper accruals and reserves as shall be required under GAAP consistently applied. The Company shall permit HCMLP or its designee(s) to visit and inspect the Company's properties, to examine and audit its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times and during normal business hours as may be requested by HCMLP.

Section 5.3 Directors and Officers Insurance.

(a) The Company shall maintain, from financially sound and reputable insurers approved by HCMLP, directors' and officers' insurance with coverage decided in accordance with policies adopted by HCMLP.

(b) The Company will indemnify the Board of Directors to the broadest extent permitted by applicable law. The Company shall enter into written indemnification agreements (in a form reasonably acceptable to HCMLP) with the directors and executive officers of the Company.

(c) in the event of a Change in Control, proper provision shall be made so that the successors and assigns of the Company assume the obligations of the Company with respect to indemnification of members of the Board of Directors as in effect immediately prior to such transaction, whether in the Company's Bylaws, Certificate of Incorporation, or elsewhere, as the case may be, and, unless otherwise affirmatively determined by the Board of Directors, for the purchase of "*tail*" D&O insurance coverage.

Section 5.4 Additional Stockholders. As a condition to the Company's issuance of any shares of Common Stock, or options, warrants or rights to purchase or acquire Common Stock, to any person or entity, including the issuance of certificates representing shares of Common Stock upon a transfer following compliance with the terms of this Agreement, the Company shall, as a condition to such issuance, cause such person or entity to execute an Adoption Agreement in the form attached as Exhibit A hereto in the capacity of a Remaining Stockholder or a Highland Capital Stockholder, as appropriate, confirming that such person or entity is bound by, and subject to, all the terms and provisions of this Agreement applicable to a Remaining Stockholder or a Highland Capital Stockholder, whichever is applicable to such person or entity. The addition of Stockholders as parties to the Agreement in compliance with this provision shall not be deemed an amendment.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Term; Termination. This Agreement shall terminate upon the earliest to occur of (a) such time as the Stockholders shall no longer be the owner of any shares of capital stock of the Company; or (b) the date specified by agreement of the Company and HCMLP. Notwithstanding the foregoing, the following rights under this Agreement shall terminate as set forth herein:

(a) The rights of first refusal and co-sale set forth in Article I hereof shall terminate upon the earlier of (i) the closing of a bona fide firm commitment underwritten public offering of the Company's Common Stock registered under the Securities Act resulting in proceeds to the Company of at least \$50 million (a "*Qualified IPO*"), and (ii) a Change in Control (including in the case of an asset sale or similar transaction in which Stockholders continue to hold the Company's shares, the final distribution of proceeds to the Stockholders);

(b) The rights of first offer set forth in Article II hereof shall terminate upon the earlier of (i) a Qualified IPO, and (ii) a Change in Control (including in the case of an asset sale or similar transaction in which Stockholders continue to hold the Company's shares, the final distribution of proceeds to the Stockholders);

(c) The registration rights set forth in Article III hereof shall terminate with respect to any Holder upon the earlier of (i) a Change in Control, and (ii) the date upon which all Registrable Securities held by such Holder can be sold without restriction under Rule 144(k) under the Securities Act;

(d) The voting rights and obligations set forth in Article IV hereto shall terminate upon the earlier of (i) (A) in the case of Section 4.1 the Initial Public Offering, and (B) in the case of Section 4.2, a Qualified IPO, and (ii) a Change in Control; and, *provided* that the provisions of Section 4.2 will continue after the closing of any Approved Sale to the extent necessary to enforce the provisions of Section 4.2 with respect to such Approved Sale;

(e) The information and inspection rights set forth in Section 5.1 and Section 5.2 hereto shall terminate upon the earliest of (i) the Initial Public Offering, (ii) the date upon which the Company becomes subject to the periodic reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, and (iii) a Change in Control (including in the case of an asset sale or similar transaction in which Stockholders continue to hold the Company's shares, the final distribution of proceeds to the Stockholders).

Section 6.2 Legend. Each certificate representing the Common Stock of the Company shall be endorsed with substantially the following legend, in addition to any other legend required by law, the Company's organizational documents or agreement to which the Stockholder is subject:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF A CERTAIN STOCKHOLDERS' AGREEMENT, BY AND AMONG THE COMPANY AND CERTAIN HOLDERS OF THE COMMON STOCK OF THE COMPANY, INCLUDING SUBSTANTIAL RESTRICTIONS ON TRANSFER AND VOTING. A COPY OF SUCH AGREEMENT IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY. THE STOCKHOLDERS' AGREEMENT IS BINDING ON THE TRANSFEREES OF SUCH SHARES.”

Section 6.3 Successors and Assigns. In addition to any restriction on transfer that may be imposed by any other agreement by which the parties hereto may be bound, this Agreement shall be binding upon the parties hereto and their respective permitted transferees, heirs, executors, administrators, successors and assigns; *provided, however*, that the Company shall not effect any transfer of Common Stock subject to this Agreement on its books or issue a new certificate for such Common Stock unless the transferee of such Common Stock has executed and delivered an Adoption Agreement in the form attached hereto as Exhibit A. Upon compliance with all transfer and other restrictions set forth herein and the execution and delivery of an Adoption Agreement by the transferee, such transferee shall be deemed to be a party hereto as if such transferee's signature appeared on the signature pages hereto, in the capacity of Highland Capital or a Remaining Stockholder, as the case may be, whereupon the schedules of Stockholders shall be updated accordingly. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

Section 6.4 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Texas, without giving effect to conflicts of laws principles.

Section 6.5 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 6.6 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

Section 6.7 Notices.

(a) All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or by commercial delivery service, or mailed by registered or certified mail (return receipt requested) or sent via facsimile (with confirmation of receipt) to the parties at the address for each party set forth herein (or at such other address for a party as shall be specified by like notice):

(i) If to the Company:

Cornerstone Healthcare Group Holding, Inc.
13455 Noel Rd., Suite 1320
Dallas, TX 75240
Fax: [●]
Attn: [●]
Email: [●]

with a copy (which shall not constitute notice) to:

[●]
[●]
[●]
Fax: ([●]
Attn: [●]

(ii) If to HCMLP:

Highland Capital Management, L.P.
[●]
[●]
[●]
Fax: [●]
Attention: [●]
Email: [●]

(iii) If to a Highland Capital Stockholder, to the address set forth below such Highland Capital Stockholder's name on Schedule A hereto, with a copy (which shall not constitute notice) to HCMLP and the Company.

(iv) If to a Remaining Stockholder, at the address set forth below such Stockholder's name on Schedule B hereto, with a copy (which shall not constitute notice) to HCMLP and the Company.

(b) Notice given by personal delivery, courier service or mail shall be effective upon actual receipt. Notice given by facsimile shall be confirmed by appropriate answer back and shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All notices by facsimile shall be confirmed promptly after transmission in writing by certified mail or personal delivery. Any party may change any address to which notice is to be given to it by giving notice as provided above of such change of address.

(c) An electronic communication ("**Electronic Notice**") shall be deemed written notice for purposes of this Section 6.7 if sent with return receipt requested to the electronic mail address specified by the receiving party in a signed writing in a nonelectronic form. Electronic Notice shall be deemed received at the time the party sending Electronic Notice receives verification of receipt by the receiving party. Any party receiving Electronic Notice may request and shall be entitled to receive the notice on paper, in a nonelectronic form ("**Nonelectronic Notice**") which shall be sent to the requesting party within five (5) days of receipt of the written request for Nonelectronic Notice.

Section 6.8 DGCL Electronic Notice. Each party hereto generally consents to the delivery of any stockholder notice pursuant to the Delaware General Corporation Law (the "**DGCL**"), as amended or superseded from time to time, by electronic transmission (a "**DGCL Electronic Notice**") pursuant to Section 232 of the DGCL at the electronic mail address or the facsimile number set forth below such party's name on the Schedules hereto, as updated from time to time by notice to the Company, or as the books of the Company. To the extent that any DGCL Electronic Notice is returned or undeliverable for any reason, the foregoing consent shall be deemed to have been revoked until a new or corrected electronic mail address has been provided, and such attempted DGCL Electronic Notice shall be ineffective and deemed to not have been given. Each party hereto hereby agrees to promptly notify the Company of any change in such holder's electronic mail address, but failure to do so shall not affect the foregoing.

Section 6.9 Dispute Resolution.

(a) Arbitration. Notwithstanding anything contained in this Agreement to the contrary, and except for the equitable remedies provided in Section 6.9(b), in the event there is an unresolved legal dispute between the parties and/or any of their respective officers, directors, partners, employees, agents, affiliates or other representatives that involves legal rights or remedies arising from this Agreement, the parties agree to submit their dispute to binding arbitration under the authority of the Federal Arbitration Act; *provided, however*, that the Company or such applicable affiliate thereof may pursue a temporary restraining order and/or preliminary injunctive relief in connection with any confidentiality covenants or agreements binding on any of the parties, with related expedited discovery for the parties, in a court of law, and, thereafter, require arbitration of all issues of final relief. The Arbitration will be conducted by the American Arbitration Association, or another, mutually agreeable arbitration service. The arbitrator(s) shall be duly licensed to practice law in the State of Texas. The discovery process

shall be limited to the following: Each side shall be permitted no more than (i) two party depositions of six hours each. Each deposition is to be taken pursuant to the Texas Rules of Civil Procedure; (ii) one non-party deposition of six hours; (iii) twenty-five interrogatories; (iv) twenty-five requests for admission; (v) ten requests for production. In response, the producing party shall not be obligated to produce in excess of 5,000 total pages of documents. The total pages of documents shall include electronic documents; (vi) one request for disclosure pursuant to the Texas Rules of Civil Procedure. Any discovery not specifically provided for in this paragraph, whether to parties or non-parties, shall not be permitted. The arbitrator(s) shall be required to state in a written opinion all facts and conclusions of law relied upon to support any decision rendered. No arbitrator will have authority to render a decision that contains an outcome determinative error of state or federal law, or to fashion a cause of action or remedy not otherwise provided for under applicable state or federal law. Any dispute over whether the arbitrator(s) has failed to comply with the foregoing will be resolved by summary judgment in a court of law. In all other respects, the arbitration process will be conducted in accordance with the American Arbitration Association's dispute resolution rules or other mutually agreeable, arbitration service rules. The party initiating arbitration shall pay all arbitration costs and arbitrator's fees, subject to a final arbitration award on who should bear costs and fees. All proceedings shall be conducted in Dallas, Texas, or another mutually agreeable site. Each party shall bear its own attorneys fees, costs and expenses, including any costs of experts, witnesses and/or travel, subject to a final arbitration award on who should bear costs and fees. The duty to arbitrate described above shall survive the termination of this Agreement. Except as otherwise provided above, the parties hereby waive trial in a court of law or by jury. All other rights, remedies, statutes of limitation and defenses applicable to claims asserted in a court of law will apply in the arbitration.

(b) Equitable Relief. Each party hereto acknowledges and agrees that any breach of this Agreement would result in substantial harm to the other parties hereto for which monetary damages alone could not adequately compensate. Therefore, the parties hereto unconditionally and irrevocable agree that any non-breaching party hereto shall be entitled to seek protective orders, injunctive relief and other remedies available at law or in equity (including, without limitation, seeking specific performance or the rescission of purchases, sales and other transfers of Securities not made in strict compliance with this Agreement).

Section 6.10 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

Section 6.11 Amendments and Waivers. Subject to the last sentence of this Section 6.11, any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of (i) the Company, (ii) HCMLP, (iii) the Highland Capital Stockholders holding a majority of the Shares of the Company's Capital Stock held by Highland Capital, and (iv) at any such time as Highland Capital does not hold a majority of the Shares of the Company's capital stock that are subject to this Agreement, the Stockholders holding a majority of the shares of the Company's capital stock (on an as-converted to Common Stock basis) then held by all Stockholders that are subject to this Agreement, *provided* that the

consent of the Remaining Stockholders shall not be required for any amendment or waiver if such amendment or waiver either (A) is not directly applicable to the rights of the Remaining Stockholders hereunder or (B) does not materially and adversely affect the rights of the Remaining Stockholders in a manner that is disproportionate to the effect on the rights of the other parties hereto. Notwithstanding the foregoing, any provision hereof may be waived by the waiving party on such party's own behalf, without the consent of any other party. Any amendment or waiver effected in accordance with this Section 6.11 shall be binding upon each party to this Agreement and each future party to this Agreement. Notwithstanding the foregoing, neither (i) the addition of parties hereto as a condition to such person participating in a transaction described herein, nor (ii) the addition of a party hereto as a result of such party being or becoming a Highland Capital Stockholder, shall be deemed an amendment hereto, nor shall any update to the Schedules hereto from time to time to reflect the correct holdings of or other information with respect to the parties. No provision of this Agreement that is applicable expressly to Crusader, including Section 1.1(b)(vi), Section 1.1(b)(vii), Section 1.2(d), Section 4.1(a), Section 4.1(d), Section 5.1 and this Section 6.11, shall be amended in any respect that is applicable to Crusader without the prior written consent of Crusader.

Section 6.12 Aggregation of Stock. All shares of Common Stock or other Securities of the Company held or acquired by affiliated entities or persons (including, without limitation, the Common Stock or other Securities held by Highland Capital) may be aggregated together for the purpose of determining the availability of any rights under this Agreement. For the purposes of determining the availability of any rights under this Agreement, the holdings of transferees and assignees of an individual or a partnership who are spouses, ancestors, lineal descendants or siblings of such individual or partners or retired partners of such partnership or partnerships affiliated with such transferring or assigning partnership (including spouses and ancestors, lineal descendants and siblings of such partners or spouses who acquire Common Stock by gift, will or intestate succession) shall be aggregated together with the individual or partnership, as the case may be, for the purpose of exercising any rights or taking any action under this Agreement.

Section 6.13 Entire Agreement. This Agreement (including the Schedules hereto, if any) constitutes the full and entire understanding and agreement between the parties with regard to the subject matter hereof and thereof and supersedes any and all prior agreements relating to the subject matter hereof, including without limitation the First Stockholders' Agreement. The Company and each Stockholder acknowledges and agrees that neither the Company's Certificate of Incorporation or Bylaws shall be amended to include any transfer restrictions on the Company's Securities (it being understood that any and all applicable transfer restrictions, other than those arising under the securities laws generally, shall be as set forth herein).

Section 6.14 Stock Splits, Stock Dividends, etc. In the event of any stock split, stock dividend, capitalization, reorganization, or the like, any securities issued with respect to the shares of the Company's capital stock held by the Stockholders shall become subject to the terms of this Agreement.

Section 6.15 Cumulative Remedies. In addition to the rights and remedies stated in this Agreement, each party hereto shall have all those rights and remedies allowed by applicable laws. The rights and remedies of each party are cumulative and recourse to one or more right or remedy shall not constitute a waiver of the others.

Section 6.16 Rights of Stockholders. Each of HCMLP and each Stockholder, in its sole and absolute discretion, may exercise or refrain from exercising any rights or privileges that such Stockholder may have pursuant to this Agreement, the Company's Certificate of Incorporation or Bylaws, or at law or in equity; and neither HCMLP nor such Stockholder shall incur or be subject to any liability or obligation to the Company, any other party hereto, or any other person, by reason of exercising or refraining from exercising any such rights or privileges.

Section 6.17 Further Assurance. At any time or from time to time after the date hereof, the parties agree to cooperate with each other, and at the request of any other party, to execute and deliver any further instrument or documents and take all such further action as the other party may reasonably request in order to evidence or effectuate the consummation of the transactions contemplated hereby and to otherwise carry out the intent of the parties hereunder.

Section 6.18 Joint Product. This Agreement is the joint product of the Company and the other parties hereto and each provision hereof and thereof has been subject to the mutual consultation, negotiation and agreement of the Company and the other parties hereto and shall not be construed against any party hereto.

[Signature Pages Follow]

[Signature Page to Amended & Restated Stockholders' Agreement]

000780

IN WITNESS WHEREOF, the undersigned party has executed this counterpart signature page to the Amended & Restated Stockholders' Agreement as of the date first above written.

COMPANY:

**CORNERSTONE HEALTHCARE GROUP
HOLDING, INC.**

By: _____
Name: _____
Title: _____

HCMLP:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its general partner

By: _____
Name: _____
Title: _____

HIGHLAND CAPITAL STOCKHOLDERS:

Highland Credit Opportunities Holding Corporation

By: _____
Name: _____
Title: _____

Highland Credit Strategies Holding Corporation

By: _____
Name: _____
Title: _____

Highland Capital Management, L.P.

By: Strand Advisors, Inc., its general partner

By: _____
Name: _____
Title: _____

REMAINING STOCKHOLDERS:

Highland Crusader Holding Corp.

By: _____

Name: Mark S. DiSalvo

Title: Authorized Signatory

SCHEDULE A

**Highland Capital Stockholders
(as of [●], 2020)**

<u>Name/Address</u>	<u>Number of Shares</u>
Highland Credit Opportunities Holding Corporation 13455 Noel Road, Suite 800 Dallas, Texas 75240	4,029
Highland Credit Strategies Holding Corporation 13455 Noel Road, Suite 800 Dallas, Texas 75240	8,119
Highland Capital Management, L.P. 13455 Noel Road, Suite 800 Dallas, Texas 75240	1,022
Highland Restoration Capital Partners Master, L.P. 13455 Noel Road, Suite 1300 Dallas, Texas 75240	6,655
Highland Restoration Capital Partners, L.P. 13455 Noel Road, Suite 1300 Dallas, Texas 75240	5,445
Total	25,270

SCHEDULE B

**Remaining Stockholders
(as of [●], 2020)**

<u>Name/Address</u>	<u>Number of Shares</u>
Highland Crusader Holding Corp. 800 Turnpike Street, Suite 300 North Andover, MA 01845	14,830

EXHIBIT A

Adoption Agreement

This Adoption Agreement (“*Adoption Agreement*”) is executed by the undersigned (the “*Transferee*”) pursuant to the terms of that certain Amended & Restated Stockholders’ Agreement dated as of _____ (the “*Stockholders’ Agreement*”) by and among Cornerstone Healthcare Group Holding, Inc. (the “*Company*”), Highland Capital Management, L.P. and certain holders of its Common Stock. Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Stockholders’ Agreement.

1. Acknowledgement. Transferee acknowledges that Transferee is acquiring certain shares of the capital stock of the Company (the “*Stock*”), which shares are subject to the terms and conditions of the Stockholders’ Agreement.

2. Agreement. As partial consideration for such transfer, Transferee (i) agrees that the Stock acquired by Transferee shall be bound by and subject to the terms of the Stockholders’ Agreement, to the same extent and with the same rights and obligations as the person(s) from which such Stock is received and (ii) hereby agrees to become a party to the Stockholders’ Agreement with the same force and effect as if Transferee were originally a party thereto in the capacity of a [Highland Capital / Remaining] Stockholder.

3. Notice. Any notice required or permitted by the Stockholders’ Agreement shall be given to Transferee at the address listed beside Transferee’s signature below.

4. Joinder. The spouse of the undersigned Transferee, if applicable, executes this Adoption to acknowledge its fairness and that it is in such spouse’s best interests, and to bind to the terms of the Stockholders’ Agreement such spouse’s community interest, if any, in the Stock.

EXECUTED AND DATED this ____ day of _____, ____.

TRANSFeree:

Title: _____

Address: _____

Fax: _____

Spouse: (if applicable):

Name:

Acknowledged and accepted on _____, _____.

CORNERSTONE HEALTHCARE GROUP HOLDING, INC.

By: _____

Name: _____

Title: _____

EXHIBIT B

(To Be Filed under Seal)

EXHIBIT 2

Partial Final Award dated March 6, 2019

(To Be Filed under Seal)

EXHIBIT 3

Disposition of Application of Modification of Award dated March 14, 2019

(To Be Filed under Seal)

EXHIBIT 4

Final Award dated April 29, 2019

(To Be Filed under Seal)

EXHIBIT 5

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
 (State)

Case number 19-34054

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** Redeemer Committee Highland Crusader Fund
 Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
See summary page	

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Contact phone _____ Contact phone _____
 Contact email TMascherin@jenner.com Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim? \$ <u>See attached rider</u>	Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>See attached rider</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/03/2020
MM / DD / YYYY

/s/Terri L. Mascherin
 Signature

Print the name of the person who is completing and signing this claim:

Name Terri L. Mascherin
First name Middle name Last name

Title Partner

Company Jenner and Block LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



Your claim can be filed electronically on KCC's website at <https://epoc.kccllc.net/HCMPLP>

ID: 24788159

PIN: wZvUm7fb

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the Northern District of Texas, Dallas Division

Case number 19-34054-sgj11

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both, 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1: Identify the Claim NameID: 13930498

1. **Who is the current creditor?** Redeemer Cmmttee Highland Crusader Fund
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?** **Where should notices to the creditor be sent?** **Where should payments to the creditor be sent? (if different)**

Redeemer Cmmttee Highland Crusader Fund
c/o Terri Mascherin, Esq.
Jenner & Block
353 N. Clark Street
Chicago, IL 60654-3456

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Name _____
 Number _____ Street _____
 City _____ State _____ ZIP Code _____
 Address _____
 Country _____
 Contact phone _____
 Contact email _____
 Contact phone _____
 Contact email _____
 Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.
 See attached rider.

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? No Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650* earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)? No Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04 / 02 / 2020
MM / DD / YYYY



 Signature

Print the name of the person who is completing and signing this claim:

Name Terri L. Mascherin
First name Middle name Last name

Title Partner

Company Jenner & Block LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 353 N. Clark Street
Number Street

Chicago IL 60654-3456 USA
City State ZIP Code Country

Contact phone (312) 222-9350 Email tmascherin@jenner.com



**RIDER TO THE PROOFS OF CLAIM OF THE REDEEMER
COMMITTEE OF THE HIGHLAND CRUSADER FUND**

This Rider is part of the proof of claim (the “**Proof of Claim**”) filed by the Redeemer Committee of the Highland Crusader Fund (the “**Redeemer Committee**”) against Highland Capital Management, L.P. (“**HCM**” or the “**Debtor**”).

On March 6, 2019, a panel of arbitrators issued a Partial Final Award (the “**March Award**”) in favor of the Redeemer Committee against HCM. On April 29, 2019, the panel issued a Final Award (the “**Final Award**,” and together with the March Award, the “**Arbitration Award**”) in favor of the Redeemer Committee against HCM.¹ The Arbitration Award is subject to the Federal Arbitration Act and The Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Redeemer Committee timely moved to confirm the Award in the Delaware Chancery Court. HCM moved for partial vacatur of the Arbitration Award in June 2019. The time period to move to vacate the Arbitration Award expired prior to the Petition Date (as defined below). All capitalized terms that are not defined herein have the meanings given to such terms in the Arbitration Award.

The Redeemer Committee files this Proof of Claim out of an abundance of caution. The Arbitration Award is an executory contract under section 365 of the Bankruptcy Code. HCM has not yet moved to assume or reject the contract. Accordingly, the deadline to file a proof of claim remains undetermined. By filing the Proof of Claim, the Redeemer Committee does not concede that the amounts awarded under the Arbitration Award are prepetition claims or that it is required to file a proof of claim to be entitled to the amounts described herein. The Redeemer Committee reserves all rights to amend or modify this Proof of Claim in any respect, including to assert other or additional claims, or for the purpose of fixing or liquidating any contingent or unliquidated claims. This Proof of Claim is without prejudice to any other rights the Redeemer Committee may have against the Debtor, its officers, employees, successors, or assigns.

This Proof of Claim includes the following components, and each is based on the Arbitration Award (together, the “**Claim**”):

1. **Damage Claim.** The Redeemer Committee asserts a liquidated claim for at least \$190,824,557 plus interest that is accruing beginning as of October 16, 2019, the date that HCM filed its bankruptcy case (the “**Petition Date**”). As set forth in the Final Award, the separate components of the Damage Claim are as follows, and the amounts set forth below are as of the Petition Date, including prepetition interest awarded under the Arbitration Award accrued to the Petition Date:
 - a. Deferred Fee Claim: \$43,105,395 (Final Award ¶ F.a.ii.1)
 - b. Distribution Fee Claim: \$22,922,608 (Final Award ¶ F.a.ii.2)

¹ Copies of the Arbitral Award have previously been provided the Debtor, the Official Committee of Unsecured Creditors, and the Office of the United States Trustee. The Redeemer Committee reserves the right to file a copy of the Arbitral Award with the Bankruptcy Court.

- c. Taking of Plan Claims: \$3,277,991 (Final Award ¶ F.a.v)
- d. CLO Trades Claim: \$685,195 (Final Award ¶ F.a.vi)
- e. Credit Suisse Claim: \$3,660,130 (Final Award ¶ F.a.vii)
- f. UBS Claim: \$2,600,968 (Final Award ¶ F.a.viii)
- g. Barclays Claim: \$30,811,366 (Final Award ¶ F.a.ix)
- h. Legal Fees, Costs, and Expenses: \$11,351,850 (Final Award ¶ F.a.xi)
- i. Administrative Fees: \$514,164 (Final Award ¶ F.a.xii)
- j. Cornerstone Award: \$71,894,891 (Final Award ¶ F.a.ix)

The Redeemer Committee also asserts an unliquidated claim for post-petition interest, attorneys' fees, costs, and other expenses that continue to accrue in connection with the Damage Claim.

2. **Cancellation of Limited Partnership Interests.** The Final Award provides, in relevant part, for the cancellation of the limited partnership interests in the Crusader Fund that are (i) held by HCM and Charitable DAF Fund, L.P. that are identified in RC411, and (ii) held by Eames, Ltd. (Final Award ¶¶ F.a.v and F.a.x). The Final Award provides for HCM to transfer, or take all necessary steps to cause the transfer of, such interests to the Redeemer Committee for the benefit of the Crusader Fund. The Final Award also provides that the Redeemer Committee has the independent right to cause the Crusader Fund to cancel such limited partnership interests. The Redeemer Committee reserves the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cancel such limited partnership interests in accordance with the Final Award. The Redeemer Committee asserts a claim in an unliquidated amount in the event all such limited partnership interests are not cancelled in accordance with the Final Award.
3. **Deferred Fee Account.** The Arbitration Award granted the Redeemer Committee's request for a declaratory judgment with respect to the immediate distribution of the Deferred Fee Account, which the Crusader Fund continues to hold, and ordered the payment of the funds in such account to the Redeemer Committee for disbursement to the Consenting Compulsory Redeemers (March Award ¶ VII.D; Final Award ¶ F.a). The Redeemer Committee reserves the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cause the distribution of the funds held in the Deferred Fee Account in accordance with the Arbitration Award. The Redeemer Committee asserts a claim in an unliquidated amount in the event all such funds are not distributed in accordance with the Arbitration Award.

The Redeemer Committee expressly reserves all of its procedural and substantive defenses and rights with respect to any claim that may be asserted against the Redeemer Committee by the Debtor, including any rights of setoff or recoupment.

The filing of this Claim shall not constitute: (i) an admission of liability by the Redeemer Committee to any party; (ii) a waiver or release of the Redeemer Committee's rights against any person, entity, or property; (iii) a consent by the Redeemer Committee to the jurisdiction of the Bankruptcy Court with respect to the subject matter of this Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases or otherwise involving the Redeemer Committee; (iv) a waiver of the right to move to withdraw the reference to the subject matter of this Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant; (v) a waiver of the right to have final orders entered only after *de novo* review by a United States Judge; (vi) its right to trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases; (vii) its right to arbitration under the Plan and Scheme; (viii) an election of remedies; or (ix) any other rights, claims, actions, defenses, setoffs, or recoupments to which it is or may be entitled under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly reserved.

EXHIBIT 6

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
 (State)

Case number 19-34054

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** See summary page
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

<p>Where should notices to the creditor be sent?</p> <p>See summary page</p> <p>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</p>	<p>Where should payments to the creditor be sent? (if different)</p> <p>Alvarez and Marsal CRF Management, LLC 2029 Century Park East, Suite 2060 Los Angeles, CA 90067, United States</p>
--	---

Contact phone 212-351-3969 Contact phone 310-975-2600
 Contact email mrosenthal@gibsondunn.com Contact email svarner@alvarezandmarsal.com

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ see attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

See attached rider

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: See attached rider



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/06/2020
MM / DD / YYYY

/s/Michael A. Rosenthal
 Signature

Print the name of the person who is completing and signing this claim:

Name Michael A. Rosenthal
First name Middle name Last name

Title Counsel to Alvarez and Marsal CRF Management, LLC, as Investment Manager

Company Gibson, Dunn and Crutcher LLP
 Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



Fill in this information to identify the case:

Debtor 1 Highland Capital Management, L.P.

Debtor 2 (Spouse, if filing) _____

United States Bankruptcy Court for the: Northern District of Texas

Case number 19-34054-sgj11

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** Highland Crusader Offshore Partners, L.P., et al. (see rider for all names of creditors)
 Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
	<p>Name <u>Michael A. Rosenthal, Gibson, Dunn & Crutcher</u></p> <p>Street <u>200 Park Avenue</u></p> <p>City <u>New York</u> State <u>NY</u> ZIP Code <u>10166</u></p> <p>Contact phone <u>(212) 351-3969</u></p> <p>Contact email <u>mrosenthal@gibsondunn.com</u></p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>	<p>Name <u>Alvarez & Marsal CRF Management, LLC</u></p> <p>Street <u>2029 Century Park East, Suite 2060</u></p> <p>City <u>Los Angeles</u> State <u>CA</u> ZIP Code <u>90067</u></p> <p>Contact phone <u>310-975-2600</u></p> <p>Contact email <u>SVarner@alvarezandmarsal.com</u></p>

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

See attached rider

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: See attached rider

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/06/2020
MM / DD / YYYY



Signature

Print the name of the person who is completing and signing this claim:

Name Michael A. Rosenthal
First name Middle name Last name

Title Counsel to Alvarez & Marsal CRF Management, LLC, as Investment Manager

Company Gibson, Dunn & Crutcher LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 200 Park Avenue
Number Street
New York NY 10166
City State ZIP Code

Contact phone (212) 351-3969 Email mrosenthal@gibsondunn.com

RIDER TO THE PROOF OF CLAIM OF THE CRUSADER FUNDS

Dated: April 6, 2020

This Rider is part of the proof of claim (the “**Proof of Claim**”) filed by Highland Crusader Offshore Partners, L.P. (“**Master Fund**”), Highland Crusader Fund, L.P. (“**Onshore Fund**”), Highland Crusader Fund, Ltd. (“**Offshore Fund I**”), and Highland Crusader Fund II, Ltd. (“**Offshore Fund II**” and together with the Master Fund, Onshore Fund, and Offshore Fund I, the “**Crusader Funds**”), by and through their authorized investment manager, Alvarez & Marsal CRF Management, LLC, against Highland Capital Management, L.P. (“**HCM**” or the “**Debtor**”).

The Crusader Funds’ claim against HCM contains two components (which partially overlap) and a number of sub-components, described below.

I. FORFEITURE OF COMPENSATION

At all relevant times prior to August 4, 2016, HCM served as the investment manager for each of the Crusader Funds, pursuant to the terms of (a) the Joint Plan of Distribution of the Crusader Funds (the “**Plan**”); (b) the Scheme of Arrangement (the “**Scheme**”); (c) the Amended and Restated Investment Management Agreement between the Master Fund and HCM, dated as of June 1, 2006 (the “**Master Fund IMA**”); (d) the Amended and Restated Investment Management Agreement between Onshore Fund and HCM, dated as of June 1, 2006 (the “**Onshore IMA**”); (e) the Amended and Restated Investment Management Agreement between Offshore Fund I and HCM, dated as of September 1, 2006 (the “**Offshore I IMA**”); and (f) the Third Amended and Restated Investment Management Agreement between Offshore Fund II and HCM, dated as of September 1, 2006 (the “**Offshore II IMA**” and together with the Master Fund IMA, the Onshore IMA, and the Offshore I IMA, the “**IMAs**”). The Plan, the Scheme, and the IMAs are collectively referred to as the “**Fund Documents**.”

Pursuant to the Fund Documents, HCM received compensation from the Crusader Funds in the form of Management Fees, Distribution Fees, and rights to Deferred Fees (each as defined in the Plan, the Scheme, or the IMAs). However, by no later than January 2012, HCM willfully and deliberately breached its obligations under the Fund Documents and breached its duty of loyalty to the Crusader Funds. At that time, HCM caused the Crusader Funds to borrow on margin from a trading account at Jefferies, and used the borrowings to inflate the amount of distributions being made, so as to inflate the amount of HCM’s Distribution Fee. Following that date, HCM committed other acts of disloyalty and further breached its obligations to the Crusader Funds, as described in the Arbitration Award (as defined below) and as shown by the evidence presented at the arbitration hearing that led to the Arbitration Award.

As a result, pursuant to the “faithless servant” doctrine, HCM forfeited any right it had to compensation for its services from the Crusader Funds, from the date of HCM’s first disloyal act onward. *See, e.g., Phansalkar v. Andersen Weinroth & Co., L.P.*, 344 F.3d 184, 188 (2d Cir. 2003) (“We hold that New York’s faithless servant doctrine requires Phansalkar to forfeit all compensation received after his first disloyal act.”). As a “faithless servant,” HCM is obligated to disgorge all compensation received from the Crusader Funds from the date of HCM’s first disloyal act, and has no right to any further compensation from the Crusader Funds. The Crusader Funds thus assert a claim in the following amounts:

1. Management Fees: \$8,233,337
2. Distribution Fees: \$15,250,109
3. Deferred Fees: \$32,313,000¹
4. Other Fees: In the amount of any other compensation, fees or distributions which may now or in the future otherwise be owing to HCM

The Crusader Funds also assert an unliquidated claim for pre- and post-petition interest, attorneys' fees, costs, and other expenses in connection with recovering such amounts. The Crusader Funds also assert a claim in an unliquidated amount for any Deferred Fees to which HCM might otherwise become entitled in the future under the Fund Documents.

The Crusader Funds currently hold, and may in the future hold, amounts that HCM may claim are, either now or in the future, due to it as a result of services provided by HCM to the Crusader Funds (the "Withheld Amounts"). As a result of the claims detailed in the Arbitration Award and this Proof of Claim (including without limitation, the faithless servant claim), the Crusader Funds dispute that any such amounts are due. However, to the extent that HCM prevails on an entitlement to a claim against the Crusader Funds, the Crusader Funds have a right of setoff against any such claim to the extent of its claims against HCM and such right of setoff is further secured by the Withheld Amounts.

II. ARBITRATION AWARD

This component of the claim is asserted in the alternative to the claim asserted by the Redeemer Committee of the Crusader Funds (the "**Redeemer Committee**"). The Crusader Funds would withdraw this portion of their claim if and to the extent that the Redeemer Committee's claim is allowed.

On March 6, 2019, a panel of arbitrators issued a Partial Final Award (the "**March Award**") in favor of the Redeemer Committee against HCM. On April 29, 2019, the panel issued a Final Award (the "**Final Award**," and together with the March Award, the "**Arbitration Award**") in favor of the Redeemer Committee against HCM.² Substantially all of the relief awarded by the panel was expressly noted to be "for the benefit of the Fund." Final Award ¶¶ F.a.iii-x. The Arbitration Award is subject to the Federal Arbitration Act and The Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Redeemer Committee timely moved to confirm the Award in the Delaware Chancery Court. HCM moved for partial vacatur of the Arbitration Award in June 2019. The time period to move to vacate the Arbitration Award expired prior to the Petition Date (as defined below). All capitalized terms that are not defined below have the meanings given to such terms in the Arbitration Award.

¹ This element of the claim for forfeiture of compensation overlaps in part with a component of the Arbitration Award claim, described in Section II below.

² Copies of the Arbitral Award have previously been provided the Debtor, the Official Committee of Unsecured Creditors, and the Office of the United States Trustee. The Crusader Funds reserve the right to file a copy of the Arbitral Award with the Bankruptcy Court.

The Arbitration Award component of the Crusader Funds' claim includes the following sub-components, and each is based on the Arbitration Award:

1. **Damage Claim.** The Crusader Funds assert a liquidated claim for at least \$190,824,557 plus interest that is accruing beginning as of October 16, 2019, the date that HCM filed its bankruptcy case (the "**Petition Date**"). As set forth in the Final Award, the separate components of the Damage Claim are as follows, and the amounts set forth below are as of the Petition Date, including prepetition interest awarded under the Arbitration Award accrued to the Petition Date:
 - a. Deferred Fee Claim: \$43,105,395 (Final Award ¶ F.a.ii.1)
 - b. Distribution Fee Claim: \$22,922,608 (Final Award ¶ F.a.ii.2)
 - c. Taking of Plan Claims: \$3,277,991 (Final Award ¶ F.a.v)
 - d. CLO Trades Claim: \$685,195 (Final Award ¶ F.a.vi)
 - e. Credit Suisse Claim: \$3,660,130 (Final Award ¶ F.a.vii)
 - f. UBS Claim: \$2,600,968 (Final Award ¶ F.a.viii)
 - g. Barclays Claim: \$30,811,366 (Final Award ¶ F.a.ix)
 - h. Legal Fees, Costs, and Expenses: \$11,351,850 (Final Award ¶ F.a.xi)
 - i. Administrative Fees: \$514,164 (Final Award ¶ F.a.xii)
 - j. Cornerstone Award: \$71,894,891 (Final Award ¶ F.a.ix)

The Crusader Funds also assert an unliquidated claim for post-petition interest, attorneys' fees, costs, and other expenses that continue to accrue in connection with the Damage Claim.

2. **Cancellation of Limited Partnership Interests.** The Final Award provides, in relevant part, for the cancellation of the limited partnership interests in the Crusader Funds that are (i) held by HCM and Charitable DAF Fund, L.P. that are identified in RC411, and (ii) held by Eames, Ltd. (Final Award ¶¶ F.a.v and F.a.x). The Final Award provides for HCM to transfer, or take all necessary steps to cause the transfer of, such interests to the Redeemer Committee for the benefit of the Crusader Funds. The Final Award also provides that the Redeemer Committee has the independent right to cause the Crusader Funds to cancel such limited partnership interests. The Crusader Funds reserve the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cancel such limited partnership interests in accordance with the Final Award. The Crusader Funds assert a claim in an unliquidated amount in the event all such limited partnership interests are not cancelled in accordance with the Final Award.
3. **Deferred Fee Account.** The Arbitration Award granted the Redeemer Committee's request for a declaratory judgment with respect to the immediate distribution of the

Deferred Fee Account, which the Crusader Funds continue to hold, and ordered the payment of the funds in such account to the Redeemer Committee for disbursement to the Consenting Compulsory Redeemers (March Award ¶ VII.D; Final Award ¶ F.a). The Crusader Funds reserve the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cause the distribution of the funds held in the Deferred Fee Account in accordance with the Arbitration Award. The Crusader Funds assert a claim in an unliquidated amount in the event all such funds are not distributed in accordance with the Arbitration Award.

The Crusader Funds file this portion of the Proof of Claim out of an abundance of caution and in the event that the Arbitration Award is determined not to be an executory contract. However, the Arbitration Award may be an executory contract under section 365 of the Bankruptcy Code. HCM has not yet moved to assume or reject such contract. The Crusader Funds reserve the right to dispute whether the Arbitration Award is an executory contract and, if so, HCM's decision to reject such contract. If the Arbitration Award is determined to be an executory contract and is allowed to be rejected by the Bankruptcy Court, the Crusader Funds reserve the right to file an amended proof of claim by the bar date for the filing of rejection damages claims; if no such amended proof of claim is filed, then, this claim shall serve as the Crusader Funds' rejection damages claim. By filing this Proof of Claim, the Crusader Funds do not concede that the Arbitration Award is an executory contract, that amounts awarded under the Arbitration Award are prepetition claims or that they are now required to file a proof of claim to be entitled to the amounts described in the Arbitration Award.

* * *

The Crusader Funds reserve all rights to amend or modify this Proof of Claim in any respect, including, without limitation, to assert other or additional claims, or for the purpose of fixing or liquidating any contingent or unliquidated claims. This Proof of Claim is without prejudice to any other rights the Crusader Funds may have against the Debtor, its officers, employees, successors, or assigns.

The Crusader Funds expressly reserve all of their procedural and substantive defenses and rights with respect to any claim that may be asserted against the Crusader Funds by the Debtor, including, without limitation, any rights of setoff or recoupment.

The filing of this Proof of Claim shall not constitute: (i) an admission of liability by the Crusader Funds to any party; (ii) a waiver or release of the Crusader Funds' rights against any person, entity, or property; (iii) a consent by the Crusader Funds to the jurisdiction of the Bankruptcy Court with respect to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases or otherwise involving the Crusader Funds; (iv) a waiver or release of the right to move to withdraw the reference to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant; (v) a waiver or release of the right to seek to have the Bankruptcy Court abstain with respect to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant, (vi) a waiver or release of the right to have final

orders entered only after *de novo* review by a United States District Judge; (vii) a waiver or release of their right to trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases; (viii) a consent to a jury trial in any proceeding so triable in these cases or any case, controversy or proceeding related to these cases, (ix) a waiver or release of their right to arbitration under the Plan and Scheme; (x) an election of remedies or limitation of rights or remedies; or (xi) a waiver or release of any other rights, claims, actions, defenses, setoffs, or recoupments to which they are or may be entitled under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly reserved.



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed October 4, 2020

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Debtor.

§
§
§
§
§
§

Chapter 11

Case No. 19-34054-sgj11

**ORDER GRANTING DEBTOR'S MOTION FOR ENTRY OF AN ORDER
AUTHORIZING FILING UNDER SEAL CERTAIN OF THE EXHIBITS TO THE
DECLARATION OF JOHN A. MORRIS IN SUPPORT OF THE DEBTOR'S MOTION
FOR ENTRY OF AN ORDER APPROVING SETTLEMENTS WITH (A) THE
REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72),
AND (B) THE HIGHLAND CRUSADER FUNDS (CLAIM NO. 81),
AND AUTHORIZING ACTIONS CONSISTENT THEREWITH**

Having considered the *Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Funds (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and*

¹ The last four digits of the Debtor's taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

Authorizing Actions Consistent Therewith [Docket No. 1091] (the “Motion”)² of the above-captioned debtor and debtor-in-possession (the “Debtor”) seeking entry of an order (this “Order”) pursuant to sections 105(a) and 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9077-1 authorizing the Debtor to file under seal the Confidential Exhibits; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b) and that this Court may issue a final order consistent with Article III of the United States Constitution; and venue of the Motion being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and adequate notice of the Motion having been given; and the Court having reviewed and considered the Motion; and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED** that:

1. The Motion is **GRANTED**.
2. The Debtor is authorized to file the Confidential Exhibits under seal.
3. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
4. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Order.
5. The Court retains jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

###END OF ORDER###

² All capitalized terms used but not defined herein shall have the meanings given to them in the Motion.



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed October 29, 2020

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

----- X
In re :
 : Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ :
 : Case No. 19-34054-sgj11
Debtor. :
----- X

ORDER DIRECTING UBS'S OFFER OF PROOF

Upon consideration of the request by UBS Securities LLC and UBS AG, London Branch (together "UBS") to submit certain documents as an offer of proof during the hearing held on October 20, 2020 (the "Hearing") in connection with the Debtor's *Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent*

¹ The Debtor's last four digits of its taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

Therewith [Docket No. 1089] (the “Settlement Motion”); and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue of this proceeding is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having held the evidentiary Hearing on October 20, 2020; and after due, adequate, and sufficient consideration of UBS’s request to submit an offer of proof in connection with its objection to the Debtor’s Settlement Motion and of the Debtor’s request that UBS include additional documents in such offer of proof, and cause appearing therefor it is hereby:

ORDERED that UBS may submit an offer of proof containing the following documents, to be submitted under seal with the Court: (1) valuation analyses completed for the Debtor regarding Cornerstone Healthcare Group Holding, Inc. (“Cornerstone”) as of (a) March 31, 2020, (b) April 30, 2020, (c) May 31, 2020, (d) June 30, 2020, (e) July 31, 2020, and (f) August 31, 2020; (2) valuation analyses completed for the Highland Crusader Funds regarding Cornerstone as of (a) March 31, 2020 and (b) June 30, 2020; and (3) a “Presentation to Redeemer Committee,” dated August 6, 2020, reflecting a valuation analysis regarding Cornerstone on page thirteen therein.

End of Order

Order prepared by:

LATHAM & WATKINS LLP

By /s/ Sarah Tomkowiak

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

SEALED document regarding:
Exhibit E, 3/20/2009
Termination, Settlement, and
Release Agreement per court
order filed by Interested Party
Redeemer Committee of the
Highland Crusader Fund (RE:
related document(s)711 Order
on
motion to seal).

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**SEALED document regarding:
Exhibit H, UBS and Crusader
Fund Settlement Agreement
per court order filed by
Interested Party Redeemer
Committee of the Highland
Crusader Fund (RE: related
document(s) [711](#) Order on
motion to seal).**

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**SEALED document regarding:
Exhibit I, UBS and Credit
Strategies Fund Settlement
Agreement per court
order filed by Interested Party
Redeemer Committee of the
Highland Crusader Fund (RE:
related document(s) [711](#) Order
on motion to seal)**

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*Counsel for the Redeemer Committee of the Highland Crusader Fund
and the Crusader Funds¹*

**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.	§	

**REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUNDS AND THE
CRUSADER FUNDS' OBJECTION TO THE PROOF OF CLAIM OF UBS AG,
LONDON BRANCH AND UBS SECURITIES, LLC AND JOINDER IN THE DEBTOR'S
OBJECTION**

¹ For purposes of this Objection and Joinder, Frost Brown Todd LLC is counsel only to the Redeemer Committee and Jenner & Block, LLP is counsel to the Redeemer Committee, and for the limited purpose of this Objection, the Crusader Funds.

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Other Authorities

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Rule 3007 of the Federal Rules of Bankruptcy Procedure1, 4

Pursuant to sections 502(b)-(d) and 558 of Title 11 of the United States Code (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), (i) the Redeemer Committee of the Highland Crusader Funds (the “Redeemer Committee”) and (ii) Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd. and Highland Crusader Fund II, Ltd. (collectively, the “Crusader Funds”)² object to Proof of Claim Nos. 190 and 191, submitted by UBS AG, London Branch and UBS Securities, LLC (together, “UBS” and such claims, the “UBS Claim”), and join in the objection to the UBS Claim submitted by Highland Capital Management, L. P. (“Highland” or the “Debtor”)³

I. INTRODUCTION

UBS asserts that the Debtor is liable for breaches of contract by certain of its indirect subsidiaries, and for alleged fraudulent transfers involving other subsidiaries and funds that the Debtor currently or previously managed. UBS, the Debtor, and several of the Debtor’s affiliates have been engaged in litigation that, prior to the commencement of the Debtor’s chapter 11 case, had been ongoing since 2009 in the New York State courts (collectively, the “New York Courts”). The Redeemer Committee and the Crusader Funds have a unique perspective on the merits of the UBS Claim because two of the Crusader Fund entities were defendants in that action. The Redeemer Committee is a committee of investors, elected pursuant to the Scheme and Plan of Liquidation of the Crusader Funds approved by the Bermuda Court, to oversee Highland’s management of the Crusader Funds through what was intended to be the complete liquidation of

² Highland Crusader Holding Corporation (“Crusader Holding”), a signatory to the UBS settlement agreement described in Section IV(C), is a wholly owned subsidiary of the Crusader master fund—Highland Crusader Offshore Partners, L.P.

³ See Debtor’s Obj. to Proofs of Claim 190 and 191 of UBS Sec. LLC And UBS AG, London Branch, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Aug. 7, 2020) (Doc. No. 928).

the fund. The Redeemer Committee played a central role in the negotiation of the settlement of UBS' claims against the Crusader Funds, pursuant to which UBS released the Debtor from much of the relief that UBS now seeks in its claim.

UBS asserts that the UBS Claim arises from three principal events: (1) in the fall of 2008, certain Highland affiliates failed to honor certain contractual margin calls in connection with a proposed securitization financing; (2) in the fall of 2008, certain Highland affiliates engaged in a series of asset transfers with Highland-managed funds; and (3) on March 20, 2009, Highland affiliates unwound those transactions with the Highland-managed funds. UBS claims the Debtor owes UBS at least \$1,039,957,799—the amount of a judgment that UBS obtained in February 2020 arising from the non-Debtor affiliates' breaches of contract by failing to honor the margin calls in 2008.

The majority of the UBS Claim is barred by res judicata. The New York Courts have held that res judicata bars UBS from asserting claims against Highland that are based on conduct that occurred before February 24, 2009, the date on which UBS filed its initial complaint in New York. As discussed below, that ruling was the result of UBS filing a complaint that only asserted a claim against Highland for indemnification, a claim that was later dismissed. Notwithstanding this absolute bar, UBS asserts that the Debtor should be held liable for pre-February 24, 2009 conduct, including that of certain of its affiliates, which ultimately resulted in the New York trial court entering a \$1,039,957,799 judgment against those entities. It is telling that UBS recently acknowledged that it has never even alleged in the New York action that Highland was the alter ego of the judgment debtors. *See* UBS Reply ISO its Mot. to Lift Automatic Stay at 6, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 11, 2020) (Doc. No. 733B); Hr'g Trans. at 30-31, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 15, 2020)

(Doc. No. 746A). Any such alter ego claim would be a new path to establish liability that is barred by res judicata. To the extent that the UBS Claim is based on the Debtor’s pre-February 24, 2009 conduct, res judicata requires disallowance of that claim.

After giving effect to res judicata, the surviving part of the UBS Claim is based on certain asset transfers made by an affiliate of the Debtor, Highland Financial Partners LP (“HFP”), in March 2009. UBS asserts that those transfers were fraudulent conveyances, and that Highland breached the implied duty of good faith and fair dealing by participating in those transfers. UBS named several Highland-managed funds that received assets in March 2009 as defendants in the New York action, including two Crusader Fund entities—Highland Crusader Offshore Partners, L.P. (“Crusader Offshore Fund”) and Highland Crusader Holding Corporation (“Crusader Holding”)—as well as Highland Credit Strategies Master Fund, L.P. (the “Credit Strategies Fund”). These funds later entered into settlement agreements with UBS, and Highland was a signatory to each agreement. The settlement agreements provide, in relevant part, that UBS released Highland from any [REDACTED] [REDACTED] each fund as alleged by UBS. The UBS releases of Highland foreclosed the possibility that Highland could later be found liable to UBS in connection with the transfers to those funds. This protection was of central importance to the funds [REDACTED] [REDACTED] [REDACTED]

The chapter 11 process does not provide an alleged creditor the opportunity to relitigate matters that are the subject of final, non-appealable decisions of a state court, or prevent enforcement of valid and binding settlement agreements. As demonstrated below, UBS ignores or misconstrues the New York Courts’ decisions and the settlement agreements to attempt to avoid

the necessary conclusion that the UBS Claim must be disallowed as a matter of law other than the extent it seeks damages arising from the March 2009 transfer of assets to entities other than Crusader and Credit Strategies. Based on UBS's expert valuations, in no instance would UBS's claim against the Debtor exceed [REDACTED] before prejudgment interest.

II. JURISDICTION

The Court has jurisdiction over this matter under the Bankruptcy Code and pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2)(A), (B) and (L). Venue is proper in this District under 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are 11 U.S.C. § 502(b)-(d) and Fed. R. Bankr. P. 3007.

III. BACKGROUND

A. Fund Counterparties Fail to Meet Margin Calls in 2008.

In April 2007, UBS entered into agreements (collectively, the "CLO Warehouse Agreements") with Highland and two affiliates of Highland—Highland CDO Opportunity Master Fund, L.P. ("CDO") and Highland Special Opportunities Holding Company ("SOHC") (together, the "Fund Counterparties")—to establish a warehouse facility to finance the acquisition of syndicated leveraged loans and credit default swaps. (Ex. 1, 4/12/07 Original Synthetic Warehouse Agreement; Ex. 2, 4/20/07 Original Engagement Ltr.; Ex. 3, 5/22/07 Original Cash Warehouse Agreement.) Those assets, in turn, were to serve as the basis for a securitization pursuant to which notes would be sold to investors.

Due to market conditions, the securitized offering did not occur by the contractual deadline, and the CLO Warehouse Agreements terminated. In March 2008, UBS, Highland, and the Fund Counterparties entered into restructured warehouse agreements (collectively, the "Restructured CLO Warehouse Agreements"). (*See* Ex. 4, UBS Securities LLC Proof of Claim ¶7, *In re Highland*

Capital Mgmt., L.P., 19-34054-sgj11 (N.D. Tex. Jun. 26, 2020) (Claim No. 190).) The Restructured CLO Warehouse Agreements gave UBS the right to make margin calls on the Fund Counterparties in the event of a decline in the market value of the loans and swaps.⁴

As the market deteriorated in the fall of 2008, UBS made three margin calls on the Fund Counterparties. The Fund Counterparties satisfied the first two margin calls in September and October 2008, using funds provided by SOHC's parent corporation, HFP. (Ex. 5, Decision and Order at 4, *UBS Sec. LLC, et al v. Highland Capital Mgmt., L.P., et al*, No. 650097-2009 (N.Y. Sup. Ct. 2019). The Fund Counterparties failed to satisfy a third margin call in November 2008, and UBS issued a notice of termination of the Restructured CLO Warehouse Agreements in December. *Id.*⁵

B. Highland Affiliates Engage in Fall 2008 Transfers

Meanwhile, during the fall of 2008, certain funds then managed by Highland—including the Crusader Offshore Fund—transferred certain assets to HFP in [REDACTED] (the “Fall 2008 Transfers”). [REDACTED]

[REDACTED] HFP was not a party to the Restructured CLO Warehouse Agreements.

C. The Fall 2008 Transfers are Unwound on March 20, 2009.

The parties to the Fall 2008 Transfers unwound those transactions on March 20, 2009 (“March 2009 Transfers”). [REDACTED]

⁴ Furthermore, those agreements explicitly placed the risk of loss on the Fund Counterparties, and not Highland, as the New York Appellate Division held. *UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al.*, 893 N.Y.S.2d 869 (N.Y. App. Div. 2010) (“the agreements between the parties contain no promise on the part of Highland to undertake liability with respect to the investment losses suffered by plaintiffs, or to ensure or guarantee the performance of [Fund Counterparties]’ obligations to bear the risk of investment losses.”).

⁵ UBS’s Proof of Claim employs sleight of hand by defining the term “Highland” to include the Fund Counterparties. (See Ex. 4, UBS Securities LLC Proof of Claim ¶¶2, 11, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 26, 2020) (Claim No. 190).) Accordingly, while the UBS Claim states that “Highland posted the required collateral” and refers to “Highland’s default on UBS’s third margin call,” it was the Fund Counterparties that posted collateral and failed to meet the final margin call. See *id.* at ¶¶11-12.

As a result, [REDACTED] HFP returned the assets to the transferors, including the Crusader Fund and the Credit Strategies Fund. [REDACTED]

[REDACTED] According to UBS's expert in the New York action, HFP transferred assets with a market value of [REDACTED]



D. UBS Sues Over the Restructured Warehouse Transaction and Its Claim Against Highland Is Dismissed.

UBS filed its first complaint on February 24, 2009, against the Fund Counterparties and Highland. (Ex. 10, Compl., *UBS Sec. LLC v Highland Capital Mgmt., L.P., et al*, No. 650097/09 (N.Y. Sup. Ct. Feb. 24, 2009).) UBS's original complaint contained only one claim against Highland—a contractual claim for indemnification. *Id.* ¶¶50-56. Highland moved to dismiss that claim, arguing that the indemnification provision did not apply to the particular losses claimed by UBS. *UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al*, 893 N.Y.S.2d 869 (N.Y. App. Div. 2010). The indemnification claim was dismissed by the New York appellate court. *UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al*, 893 N.Y.S.2d 869 (N.Y. App. Div. 2010) (“the agreements

⁶ Highland Crusader Holding Corporation is a wholly-owned subsidiary of the Crusader Fund. (Ex. 8, Compl., *UBS Sec. LLC v. Highland Crusader Holding Co.*, No. 652646/2011 ¶23 (N.Y. Sup. Ct. Sept. 26, 2011); Ex. 9, 6/17/15 UBS and Crusader Fund Settlement Agreement, at 1.)

between the parties contain no promise on the part of Highland to undertake liability with respect to the investment losses suffered by plaintiffs, or to ensure or guarantee the performance of [Fund Counterparties]' obligations to bear the risk of investment losses.”).

E. New York Appellate Division Dismisses Claims Against Highland as Barred by Res Judicata.

On February 16, 2010, UBS sought amend its original complaint to assert new claims against Highland and others⁷ for claims arising from the Restructured Warehouse transaction, the Fall 2008 Transfers and the March 2009 Transfers, alleging that the March 2009 Transfers were fraudulent conveyances that benefitted Highland, and that, by causing the unwinding, Highland breached the implied covenant of good faith and fair dealing in the Restructured Warehouse Agreement. (Ex. 12, 2/16/10 UBS Ltr. to Court, *UBS Sec. LLC v Highland Capital Mgmt., L.P.*, No. 650097/2009 (N.Y. Sup. Ct.)) The New York Supreme Court denied the portion of UBS's motion that sought leave to add new claims against Highland, agreeing with Highland's position that a party cannot amend a pleading that has already been dismissed. (Ex. 11, Ruling at 5, *UBS Sec. LLC v Highland Capital Mgmt., L.P.*, No. 650097/2009 (N.Y. Sup. Ct. Jun. 17, 2010).)

Thereafter, UBS commenced a new action against Highland, in which it asserted the causes of action it had unsuccessfully sought to add to the original complaint. (Ex. 13, Compl., *UBS Sec. LLC v Highland Capital Mgmt., L.P.*, No. 650752/2010 (N.Y. Sup. Ct. Jun. 28, 2010).)⁸

⁷ UBS sought to add Highland Financial Partners, LP, Highland Credit Strategies Fund, Highland Crusader Offshore Partners, LP, Highland Credit Opportunities CDO, LP, and Strand Advisors, Inc. (See Ex. 11, Ruling at 2, *UBS Sec. LLC v Highland Capital Mgmt., L.P.*, No. 650097/09 (N.Y. Sup. Ct. Jun. 17, 2010).)

⁸ The trial court consolidated the second action against Highland with the original action that had pending claims against CDO, SOHC, HFP, Credit Strategies Fund, Crusader Offshore Fund, Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc. (Ex. 14, Consolidation Order, *UBS Sec. LLC v Highland Capital Mgmt., L.P.*, No. 650097/2009 (N.Y. Sup. Ct. Nov. 4, 2010).) UBS also later filed a separate lawsuit against Crusader's wholly owned subsidiary, Crusader Holding. (Ex. 8, Compl., *UBS Sec. LLC v Highland Crusader Holding Co.*, No. 652646/2011 (N.Y. Sup. Ct. Sept. 26, 2011).)

Highland moved to dismiss the new action, and the trial court granted the motion in part and denied it in part. *UBS Sec. LLC v Highland Capital Mgmt. L.P., et al*, No. 650097/09, 2010 WL 6268233 (N.Y. Sup. Ct. Aug. 05, 2010). The parties appealed. *UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al*, 86 A.D.3d 469 (N.Y. App. Div. 2011). The appellate court dismissed the fraudulent inducement claim against Highland, and held that to the extent UBS's new claims for breach of the covenant of good faith and fair dealing and fraudulent conveyance arise from conduct alleged to have occurred before the commencement of the original action, *i.e.*, February 24, 2009, the claims must be dismissed. *Id.* The appellate court reasoned:

Here, to the extent the claims against Highland in the new complaint implicate events alleged to have taken place before the filing of the original complaint, *res judicata* applies. That is because UBS's claims against Highland in the original action and in this action all arise out of the restructured warehousing transaction.

Id. Because this ruling precluded UBS from pursuing claims against Highland arising from conduct occurring before February 24, 2009, the appellate court barred UBS from asserting any claims based on (1) the Fund Counterparties' failure to meet the margin calls in late 2008—the claim on which the trial court ultimately found the Fund Counterparties liable in the amount of \$1,039,957,799, and (2) the Fall 2008 Transfers. As a result of this ruling, the only surviving claims against the Debtor arise from the March 2009 Transfers.

F. In 2013, Highland Moves for Summary Judgment

In October 2013, Highland, HFP, and other defendants moved for summary judgment on UBS's remaining claims. The trial court recognized that “the Appellate Division decisions preclude any fraudulent conveyance claims arising before February 24, 2009. They therefore preclude UBS from recovering for any alleged fraudulent transfers made before that date.” (Ex. 15, Ruling at 25, *UBS Sec. LLC v Highland Capital Mgmt., L.P., et al*, No. 650097/2009 (N.Y.

Sup. Ct. Mar. 24, 2017).) The court stated that UBS could still introduce evidence of pre-February 24, 2009 conduct to support claims that only arose after February 24, 2009:

However, proof of pre-February 24, 2009 transfer, and of other conduct involving the operation of the Highland entities, is not prohibited to the extent necessary to prove UBS's claims for post-February 24, 2009 fraudulent conveyances, which are maintainable under the Appellate Division decisions under an alter ego theory.⁹

Id. The court also dismissed UBS's claim against Highland for breach of good faith and fair dealing because the contract at issue, the Restructured CLO Warehouse Agreement, was terminated before February 24, 2009. *Id.* at 34-35.

The parties appealed. Initially, the Appellate Division reinstated the claim for breach of good faith and fair dealing and dismissed the entirety of the fraudulent conveyance claim against Highland, including for the March 2009 Transfers, but the court later vacated that opinion. (Ex. 17, Order at 3-4, *UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al*, No. 650097/2009 (N.Y. App. Div. 2017)); *UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al*, 159 A.D.3d 512, 514 (N.Y. App. Div. 2018). In its subsequent decision, the Appellate Division held that the fraudulent conveyance and breach of good faith and fair dealing claims could survive, but only to the extent they arose from conduct occurring after February 24, 2009:

There is no dispute that plaintiffs are precluded from pursuing fraudulent conveyance and breach of implied covenant claims that arose prior to February 24, 2009. However, neither our prior decisions nor the doctrine of res judicata bars plaintiffs from introducing evidence of pre-February 24, 2009 conduct to the extent necessary to prove, with respect to post-February 24, 2009 conduct, their alter ego, fraudulent conveyance and breach of implied covenant claims. The court correctly rejected defendants' arguments in support of dismissal of the remaining claims at issue.

⁹ The alter ego claim referenced in the court's decision was a claim against HFP, not against Highland. (*See* Ex.16, 2d Am. Compl., *UBS Sec. LLC v Highland Capital Mgmt., L.P., et al*, No. 650097/09 at ¶194 (N.Y. Sup. Ct. May 11 2011); Hr'g Trans. at 30-31, *In re Highland Capital Mgmt L.P., et al*, 19-34054-sgj11 (N.D. Tex. Jun. 15, 2020) (Doc. No. 746A.) UBS did not allege an alter ego claim against Highland.

UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al, 159 A.D.3d 512, 514 (N.Y. App. Div. 2018).

G. The New York Court Holds the Phase I Trial, and Finds the Fund Counterparties Liable.

Although the New York courts barred UBS from pursuing claims against Highland arising before February 24, 2009, UBS's originally-pleaded breach of contract claims against the Fund Counterparties for failing to meet the margin calls in the fall of 2008 survived. (Ex. 10, Compl. ¶¶38-49, *UBS Sec. LLC v Highland Capital Mgmt., L.P., et al*, No. 650097/2009 (N.Y. Sup. Ct. Feb. 24, 2009).) The court bifurcated the case for trial, ruling that Phase I of the trial would be a bench trial on the breach of contract claims against the Fund Counterparties, and the remaining claims, including all of the claims involving post-February 24, 2009 conduct, would be tried in Phase II. (Ex. 18, 5/1/2018 Hearing Tr. at 35:15-22, *UBS Securities LLC, et al v. Highland Capital Mgmt. L.P., et al*, No. 650097-2009 (N.Y. Sup. Ct. May 1, 2018).)

The New York Court held the Phase I bench trial in July 2018, and on November 14, 2019 the court issued a decision finding the Fund Counterparties liable for breaching the Restructured CLO Warehouse Agreements and awarding damages of \$519,374,149, which ultimately resulted in entry of a judgment for \$1,039,957,799, with prejudgment interest. (Ex. 5, Decision and Order at 39 *UBS Sec. LLC, et al v. Highland Capital Mgmt. L.P., et al*, No. 650097/2009 (N.Y. Sup. Ct. Nov. 14, 2019.); Ex. 19, Judgment at 2, *UBS Sec. LLC v Highland Capital Mgmt., L.P., et al*, No. 650097/2010 (N.Y. Sup. Ct. Feb. 10, 2020).) The court made no findings with respect to Highland or the remaining defendants,¹⁰ and those claims were scheduled to be heard during Phase II of the

¹⁰ According to UBS, the remaining defendants and claims other than Highland are: (1) Highland CDO Master Fund, L.P., with claims for fraudulent inducement and fraudulent conveyance; (2) Highland Special Opportunities Holding Company, with claims for fraudulent inducement and fraudulent conveyance; (3) Highland Financial Partners, L.P., with claims for alter ego and fraudulent conveyance; (4) Strand Advisors, Inc., for general partner liability; and (5) Highland Credit Opportunities CDO, L.P., with a claim for fraudulent conveyance. (Ex. 20, Pl's Mot. to Bifurcate at 2-3, 15-16, *UBS Sec. LLC, et al v. Highland Capital Mgmt. L.P., et al*, No. 650097-2009 (N.Y. Sup. Ct. Apr. 18, 2018).)

proceedings. On October 16, 2019, the Debtor filed for chapter 11 protection, staying the proceedings against it.

Only two counts remain against the Debtor: (1) fraudulent conveyance, actual and constructive, premised on the March 2009 Transfers, in which HFP transferred assets to Highland and to the Highland-managed fund co-defendants; and (2) breach of the implied covenant of good faith and fair dealing attendant to the contracts underlying the Restructured CLO Warehouse Agreements, based on the March 2009 Transfers.

H. In 2015, UBS Released Claims Against Highland Arising From the March 2009 Transfers to the Credit Strategies Fund and the Crusader Fund.

In 2015, Highland Crusader Offshore Partners, L.P., Highland Crusader Holding Corporation, and Highland Credit Strategies Master Fund, L.P. entered into settlements with UBS. Highland was a signatory to both the Crusader and Credit Strategies settlement agreements. Each agreement settled all of UBS's claims against the applicable fund. The settlement agreements also released *Highland* from claims by UBS arising from the March 2009 Transfers to the Crusader and Credit Strategies funds. Highland is one of the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹¹ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Redeemer Committee negotiated this settlement agreement with UBS on the Crusader Fund's behalf. The Redeemer Committee negotiated for UBS's release of Highland to foreclose the risk that, in the event Highland was held liable to UBS for a transfer to the Crusader Fund,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

According to UBS's expert in the New York action, the assets that were the subject of the alleged fraudulent transfers to the two settling funds represented approximately [REDACTED] of the value of all of the assets that were transferred on March 20, 2009. [REDACTED]

[REDACTED] According to that expert, the market value of remaining assets that were not the subject of these releases was [REDACTED]

IV. ARGUMENT

In order to establish its claim for over \$1 billion against the Debtor, UBS must ignore the decisions issued by the New York Courts and the settlement agreements pursuant to which it released the Debtor from liability arising from most of the March 2009 Transfers. The chapter 11 process, however, does not grant a creditor a "do over" so that it can relitigate claims that are the subject of final, non-appealable decisions issued by state courts, or valid and binding settlement agreements. For the reasons discussed below, the UBS Claim should be disallowed as a matter of law except to the extent UBS is seeking damages with respect to the remaining assets that it alleges

were the subject of fraudulent transfers to entities other than Crusader or Credit Strategies in March 2009, which according to its expert were valued at [REDACTED]

A. Standard

The Bankruptcy Code establishes a burden-shifting framework for proving the amount and validity of a claim. “A claim . . . , proof of which is filed under section 501 [of the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. §502(a). “A proof of claim executed and filed in accordance with the [Bankruptcy Rules] shall constitute prima facie evidence of the validity and amount of the claim.” Fed. R. Bankr. P.3001(f); *see also In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006). However, the ultimate burden of proof for a claim always lies with the claimant. *Armstrong*, 347 B.R. at 583 (citing *Raleigh v. Ill. Dep’t of Rev.*, 530 U.S. 15 (2000)).

B. Several New York Court Rulings Bar UBS from Seeking Damages From the Debtor Arising From Conduct Occurring Before February 24, 2009.

This Court should disallow the UBS Claim to the extent it seeks to hold the Debtor liable for any conduct predating February 24, 2009 because the New York Courts have repeatedly held that res judicata bars any such claims. *UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al*, 86 A.D.3d 469, 474 (N.Y. App. Div. 2011); *UBS v. Highland Capital Mgmt., L.P., et al*, 93 A.D.3d 489, 490 (N.Y. App. Div. 2012); *UBS Sec. LLC v Highland Capital Mgmt., L.P., et al*, No. 650097/09 at 34 (N.Y. Sup. Ct. Mar., 24 2017); *UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al*, 159 A.D.3d 512, 514 (N.Y. App. Div. 2018). In its proof of claim, UBS seeks \$1,039,957,799—the exact amount of the judgment against the Fund Counterparties for their failure to honor the margin calls in the fall of 2008—a claim entirely precluded by res judicata. (Ex. 4, UBS Securities LLC Proof of Claim ¶24, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 26, 2020) (Claim No. 190); Ex. 19, Judgment at 2, *UBS Sec. LLC v Highland*

Capital Mgmt., L.P., et al, No. 650752/10 (N.Y. Sup. Ct. Feb. 10, 2020).). UBS claims that it is entitled to recover the judgment against the Fund Counterparties from the Debtor because Highland was “party to the same contract and exercised complete control over the two liable affiliates—under which Claimant is entitled to damages that are at least as much as the Phase I judgment amount.” (Ex. 4, UBS Securities LLC Proof of Claim ¶24, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 26, 2020) (Claim No. 190).) This argument flies in the face of the multiple rulings of the New York Courts to the contrary.

Those final, non-appealable New York Court rulings are binding here. *See Matter of Brady, Texas, Mun. Gas Corp.*, 936 F.2d 212, 218 (5th Cir. 1991) (“unless the Code provides otherwise, state courts have concurrent jurisdiction, and bankruptcy courts are prohibited from relitigating these matters if the state courts have already resolved them.”); *In re Ocasio*, 10 F. App’x 531, 531-32 (9th Cir.2001); *In re Bellucci*, 119 B.R. 763, 769 (Bankr. E.D. Cal. 1990).

The Debtor and the Redeemer Committee each pointed out in their objections to UBS’s motion to lift the automatic stay that res judicata bars UBS from pursuing these claims. *See Debtor’s Obj. to UBS’s Mot. to Lift Automatic Stay* ¶25-26, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 3, 2020) (Doc. No. 687); Redeemer Comm. Obj. to UBS’s Mot. to Lift Automatic Stay at 13-14, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 8, 2020) (Doc. No. 714).) In its reply, UBS claimed that the New York courts had, in fact, held the opposite—that UBS was expressly permitted to assert claims arising from pre-February 24, 2009 conduct. (UBS Reply ISO its Mot. to Lift Automatic Stay ¶6, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 11, 2020) (Doc. No. 733B) (“This is virtually identical to the [res judicata] “defense” at hand, and both the State Court and the Appellate Division rejected the Debtor’s ultimate conclusion—that UBS’s ability to prove its claims against

the Debtor are, in fact, “limited” to reliance on post-February 2009 conduct only.”) UBS quotes selective portions of those decisions to support its conclusion:

The State Court rejected this point when it ruled on the Debtor’s motion. *See* Docket No. 688-4 at 25 (Mar. 13, 2017 State Court Summ. J. Op.) (“This court previously rejected the contention, advanced by moving defendants here, that UBS cannot rely on events or conduct occurring before February 2009 to support its alter ego and fraudulent conveyance claims.”). And the Appellate Division squarely rejected it once more on appeal. Ex. 2 at 46 (Mar. 15, 2018 Order) (“The court correctly rejected defendants’ arguments” because “neither our prior decisions nor the doctrine of res judicata bars plaintiffs from introducing evidence of pre-February 24, 2009 conduct to the extent necessary to prove, with respect to post-February 24, 2009 conduct, their alter ego, fraudulent conveyance and breach of implied covenant claims.”).

Id.

UBS’s citations are misleading, at best. The full text of the lower court’s ruling makes clear that UBS is barred from pursuing claims against the Debtor arising before February 24, 2009:

This court previously rejected the contention, advanced by moving defendants here, that UBS cannot rely on events or conduct occurring before February 2009 to support its alter ego and fraudulent conveyance claims. ***As held in the prior decision, the Appellate Division decisions preclude any fraudulent conveyance claims arising before February 24, 2009. They therefore preclude UBS from recovering for any alleged fraudulent conveyances made before that date.*** However, proof of pre-February 24, 2009 transfers, and of other conduct involving the operations of the Highland entities, is not prohibited ***to the extent necessary to prove UBS’s claims for post-February 24, 2009 fraudulent conveyances, which are maintainable under the Appellate Division decisions on an alter ego theory.***

(Ex. 15, Ruling at 25, *UBS Sec. LLC v Highland Capital Mgmt., L.P., et al*, No. 650097/2009 (N.Y. Sup. Ct. Mar. 24, 2017) (emphasis added).) Similarly, UBS again selectively omits the portion of the appellate ruling that precludes UBS from pursuing damages arising before February 24, 2009:

There is no dispute that plaintiffs are precluded from pursuing fraudulent conveyance and breach of implied covenant claims that arose prior to February 24, 2009. However, neither our prior decisions nor the doctrine of res judicata bars plaintiffs from introducing evidence of pre-February 24, 2009 conduct to the extent necessary to prove, with respect to post-February 24, 2009 conduct, their alter ego, fraudulent conveyance and breach of implied covenant claims. The court correctly rejected defendants' arguments in support of dismissal of the remaining claims at issue.

UBS Sec. LLC v. Highland Capital Mgmt., L.P., et al, 86 A.D.3d 469, 474 (N.Y. App. Div. 2011) (emphasis added).

The New York Courts ruled that UBS may not pursue claims against Highland arising from conduct occurring before February 24, 2009. The language that UBS cites states only that, in pursuit of its post-February 24, 2009 claims regarding the March 2009 Transfers, UBS may introduce *evidence* of conduct predating its original complaint.

The "Phase I" judgment that UBS seeks to recover from Highland was, unequivocally, based entirely on conduct predating February 24, 2009. (Ex. 5, Decision and Order at 4-5, *UBS Sec. LLC, et al v. Highland Capital Mgmt., L.P., et al*, No. 650097-2009 (N.Y. Sup. Ct. 2019).) UBS concedes that it seeks to hold Highland liable based on that 2008 conduct, because it was "party to the same contract and exercised complete control over the two liable affiliates" in 2008. (See Ex. 4, UBS Securities LLC Proof of Claim at ¶24, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 26, 2020) (Claim No. 190).) This Court should disallow UBS's claim to the extent it seeks to impose any liability on the Debtor arising from pre-February 24, 2009 conduct, including liability for the Phase I judgment.

The only remaining claims UBS has against the Debtor are for fraudulent conveyance and the breach of good faith and fair dealing with respect to the March 2009 Transfers. However, as demonstrated below, UBS entered into two settlement agreements in the New York action that

substantially reduce UBS's claim to damages [REDACTED] before any prejudgment interest.

C. The Settlement Agreements Between UBS and the Crusader and Credit Strategies Funds Released UBS's Claims for Most of the Damages from the March 2009 Transfers.

This Court should disallow UBS's claim to the extent it seeks damages arising from the March 2009 Transfers to the Crusader Fund and the Credit Strategies Fund, because UBS released those claims in 2015 settlement agreements. Bankruptcy courts have the authority to enforce settlement agreements in the claims adjudication process. *In re City Equities Anaheim, Ltd.*, 22 F.3d 954, 958 (9th Cir. 1994) ("A bankruptcy court, as a court of equity, likewise possesses the power to summarily enforce settlements."); *In re Mortg. Analysis Portfolio Strategies, Inc.*, 221 B.R. 386, 388 (Bankr. W.D. Tex. 1998) (holding that "this Court has the inherent power to enforce settlement agreements between parties."); *In re De La Fuente*, 409 B.R. 842, 845 (Bankr. S.D. Tex. 2009).

As described above, on March 20, 2009, HFP transferred assets [REDACTED]

[REDACTED] according to UBS's expert in the New York action:

[REDACTED]

[REDACTED]

On June 11, 2015, UBS agreed to release Highland from [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] That provision released all claims UBS had against Highland, whether in the form of a fraudulent conveyance claim or a breach of good faith and fair dealing claim, with respect to the March 2009 Transfers to the Credit Strategies Fund.

A few days later, on June 17, 2015, UBS agreed to release Highland from [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] These provisions release all claims UBS had against Highland—regardless whether the claim was for breach of the implied covenant of good faith and fair dealing or for fraudulent conveyance—with respect to the March 20, 2009 Transfers to those entities.

As a result, UBS retained only claims against Highland for losses or other relief arising

[REDACTED] Credit Opportunities Fund, Credit Opportunities Holding Corporation and Highland itself:

[REDACTED]

[REDACTED]

Based on the values provided by UBS's expert, UBS released Highland from claims arising from the transfer of assets valued at approximately [REDACTED] of the value of the entire transaction. [REDACTED] In exchange for releasing its claims for relief against Crusader, Credit Strategies and Highland arising from those transfers, UBS received [REDACTED] and avoided (to date) five more years of litigation against those funds. [REDACTED]

[REDACTED]

[REDACTED]

The Crusader Fund paid for and deserves to receive the full benefit of its bargain for its settlement agreement with UBS. [REDACTED] Crusader did. And the Redeemer Committee insisted that UBS release Highland because without that release, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In its reply in support of its motion to lift the automatic stay, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] UBS Reply ISO its Mot. to Lift Automatic Stay at 9, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 11, 2020) (Doc. No. 733B) (emphasis in original).) This is, again, selective quotation. The full provision reads:

[REDACTED]

[REDACTED]

[REDACTED] UBS further claims that [REDACTED]

[REDACTED]

[REDACTED] UBS Reply ISO its Mot. to Lift Automatic Stay at 9, *In re Highland Capital Mgmt., L.P.*, 19-34054-sgj11 (N.D. Tex. Jun. 11, 2020) (Doc. No. 733B).

But the settlement releases are not ambiguous, and their clear language controls—UBS released Highland for [REDACTED]

[REDACTED] *Shriners Hosp. for Children v. McCarthy Bros. Co.*, 80 F. Supp. 2d 707, 710 (S.D. Tex. 2000) (“Because the settlement provision at issue in this case contains no ambiguity, it therefore must be construed in accordance with its plain meaning.”) [REDACTED] are both broad

terms. “[L]osses’ is legally synonymous with ‘damages,’” and in its good faith and fair dealing claim, UBS is seeking damages arising from the transfers to the Crusader Fund. *Nogueiro v. Kaiser Found. Hosps.*, 250 Cal. Rptr. 478, 481 (Ct. App. 1988); see DAMAGES, Black’s Law Dictionary

(11th ed. 2019) (“Money claimed by, or ordered to be paid to, a person as compensation for loss or injury.”) Further, even if UBS’s claim for damages arising from the March 2009 Transfers was somehow not [REDACTED] UBS’s Claim for damages is a request for [REDACTED] [REDACTED] *Confederated Tribe of Colville Reservation v. White*, 1996 WL 33407856, at *3 (E.D. Wash. Nov. 7, 1996) (“filing a proof of claim is an affirmative act seeking relief via a court’s adjudication of a dispute.”); *In re Barrett Ref. Corp.*, 221 B.R. 795, 811 (Bankr. W.D. Okla. 1998) (“The filing of a proof of claim is not merely a defense, but is an affirmative claim for relief.”); *Mertens v. Hewitt Assocs.*, 508 U.S. 248, 269 (1993).

UBS released all claims for any type of relief against Highland arising from the March 2009 Transfers to the two funds, including UBS’s claim for breach of good faith and fair dealing arising from that transfer. The Redeemer Committee and the Crusader Fund should be given the full benefit of their bargain from the settlement agreement, and UBS should not be permitted to recover relief from the Debtor that UBS already released. The Crusader Fund and the Redeemer Committee respectfully request that this Court disallow UBS’s claim to the extent it seeks to hold the Debtor liable under any legal theory for damages arising from the March 20, 2009 Transfers to the Crusader Fund or Credit Strategies Fund, including UBS’s claims for fraudulent conveyance and breach of good faith and fair dealing.

CONCLUSION

For all these reasons, this Court should disallow UBS’s claim against the Debtor to the extent that it (1) seeks to hold the Debtor liable for claims arising from conduct occurring before February 24, 2009; and (2) seeks to hold the Debtor liable for claims arising from the March 2009 Transfers with respect to the asset transfers to the Credit Strategies Fund and Crusader Fund.

Dated this 7th day of August, 2020

Respectfully submitted,

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*Counsel for the Redeemer Committee of the
Highland Crusader Fund and the Crusader Funds¹²*

¹² Frost Brown Todd LLC is counsel only for the Redeemer Committee and Jenner & Block, LLP is counsel to the Redeemer Committee, and for the limited purpose of this Objection, the Crusader Funds.

CERTIFICATE OF SERVICE

The undersigned hereby certifies, that on this 7th day of August, 2020, he caused to be served a true and correct copy of the *Redeemer Committee of the Highland Crusader Funds and the Crusader Funds' Objection to the Proof Of Claim of UBS AG, London Branch and UBS Securities, LLC and Joinder in the Debtor's Objection*, by electronically filing it with the Court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Mark A. Platt

Mark A. Platt

EXHIBIT 1

(pending ruling on motion to seal)

EXHIBIT 2

(pending ruling on motion to seal)

EXHIBIT 3

(pending ruling on motion to seal)

EXHIBIT 4

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
 (State)

Case number 19-34054

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** UBS Securities LLC
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
UBS Securities LLC Attn: Suzanne Forster 1285 Avenue of the Americas New York, New York 10019 Contact phone <u>2127133432</u> Contact email <u>suzanne.forster@ubs.com</u>	 Contact phone _____ Contact email _____

(see summary page for notice party information)
 Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? UBS AG, London Branch - this is a joint litigation claim.



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 1,039,957,799.40. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

Litigation - See attached addendum

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? No Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)? No Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 06/26/2020
MM / DD / YYYY

/s/Asif Attarwala
Signature

Print the name of the person who is completing and signing this claim:

Name Asif Attarwala
First name Middle name Last name

Title Associate

Company Latham and Watkins LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 330 North Wabash Ave., Suite 2800, Chicago, IL, 60611

Contact phone 3128767667 Email asif.attarwala@lw.com



For phone assistance: Domestic (877) 573-3984 | International (310) 751-1829

Debtor: 19-34054 - Highland Capital Management, L.P. District: Northern District of Texas, Dallas Division		
Creditor: UBS Securities LLC Attn: Suzanne Forster 1285 Avenue of the Americas New York, New York, 10019 Phone: 2127133432 Phone 2: Fax: Email: suzanne.forster@ubs.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: Yes Related Claim Filed By: UBS AG, London Branch - this is a joint litigation claim. See attached addendum	
	Filing Party: Authorized agent	
Disbursement/Notice Parties: Latham and Watkins LLP Andrew Clubok 555 Eleventh Street, NW Washington, D.C., 2004-1304 Phone: 2026373323 Phone 2: Fax: E-mail: andrew.clubok@lw.com		
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: Litigation - See attached addendum	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 1,039,957,799.40	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Asif Attarwala on 26-Jun-2020 5:10:38 p.m. Eastern Time Title: Associate Company: Latham and Watkins LLP		

Optional Signature Address:

Asif Attarwala
330 North Wabash Ave.
Suite 2800
Chicago, IL, 60611

Telephone Number:

3128767667

Email:

asif.attarwala@lw.com

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

In re:)	
	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹)	
	)	Case No. 19-34054-sgj11 (SGJ)
Debtor.)	
)	

**ADDENDUM TO PROOF OF CLAIM FILED BY
UBS AG, LONDON BRANCH**

1. UBS Securities LLC hereby submits this addendum to its proof of claim (together, the “**Proof of Claim**”) against Highland Capital Management, L.P. (the “**Debtor**”) in the above-captioned chapter 11 case (the “**Chapter 11 Case**”).

2. UBS Securities LLC and UBS AG, London Branch (together, the “**Claimant**” or “**UBS**”) each have claims against the Debtor and each is filing a proof of claim in this Chapter 11 Case. Because their claims arise from the same set of factual events, including the same failed transaction, misconduct involving the Debtor and its affiliates, and subsequent litigation, the UBS claims overlap and their proof of claim forms and addendums are substantially the same.

3. This addendum is attached to, incorporated into, and constitutes an integral part of Claimant’s Proof of Claim against the Debtor. Claimant files this Proof of Claim under compulsion of the *Order (I) Establishing Bar Dates for Filing Claims and (II) Approving the Form and Manner of Notice Thereof* [Docket No. 488], as extended by the *Joint Stipulation and Order Extending Bar Date* [Docket No. 547] and modified by the *Order Denying UBS’s Motion for Relief*

¹ The Debtor’s last four digits of its taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

from the Automatic Stay to Proceed with State Court Action [Docket No. 765], solely for the purpose of asserting Claimant’s claims against the Debtor, as more particularly described and subject to any limitations set forth below.

Factual Background

A. The Knox Transaction

2. Claimant’s claims arise out of a failed transaction dating back thirteen years ago and the state court action (the “**State Court Action**”) that followed between Claimant, the Debtor, Highland CDO Opportunity Master Fund, L.P. (“**CDO Fund**”) and Highland Special Opportunities Holding Company (“**SOHC**”) (together with CDO Fund, the “**Fund Counterparties**,” and the Fund Parties and the Debtor collectively, “**Highland**”), among other parties.²

3. In early 2007, Claimant and Highland agreed to pursue a complex form of securitization transaction known as a “CLO Squared” (the “**Knox Transaction**”). (Ex. B, Decision at 2.) The purpose of the Knox Transaction was to acquire and securitize a series of collateralized loan obligation (“**CLO**”) securities and credit default swap (“**CDS**”) assets (the “**Knox Assets**”). To that end, the Debtor agreed to be the “Servicer” of the Knox Transaction, and as such was responsible for identifying the specific CLO and CDS assets to be securitized. Claimant agreed to finance the acquisition of the CLO and CDS assets identified by Highland. Claimant would then hold, or “warehouse,” the assets until the securitization was completed (the “**Knox Warehouse**”). Under this arrangement, Claimant financed the acquisition of \$818 million in Knox Assets. (*Id.*)

² The procedural history of the State Court Action is incorporated by reference, but is voluminous. The operative Second Amended Complaint and Phase I Decision and Order are attached as **Exhibit A** and **Exhibit B**, respectively. Additional pleadings and orders can be found on the State Court docket for Index No. 650097/2009 or by contacting Claimant’s counsel. Claimant reserves the right to file a copy of additional pleadings or orders with this Court.

4. The parties' first attempt at the Knox Transaction was not completed successfully and the relevant agreements expired in August 2007 without the contemplated securitization having occurred. (*Id.* at 3.) Rather than end their relationship, however, Highland and Claimant continued to consider the possibility of pursuing the contemplated securitization in 2008 under restructured versions of the prior agreements. Highland and Claimant always understood that—if the securitization were not successful—the Fund Counterparties would be obligated to pay Claimant for 100% of the losses on any CLO or CDS assets that been acquired and warehoused for the securitization. In order to convince Claimant to agree to enter restructured versions of those agreements and to finance the acquisition of the CLO and CDS assets, Highland assured Claimant that the Fund Counterparties had sufficient assets to cover any losses. It did so by providing Claimant with false, incomplete, and otherwise misleading information concerning the Fund Counterparties' finances and assets. (Ex. A, Compl. ¶¶ 47-61.)

5. In addition, Claimant specifically conditioned its agreement to enter the restructured agreements on the Fund Counterparties' ability to post an additional \$70 million in cash and securities as collateral (the "**Initial Restructuring Collateral**"), in which Claimant would hold a security interest. (*Id.* ¶¶ 56-59; Ex. B, Decision at 3.) Highland assembled \$70 million in such Initial Restructuring Collateral. But what Highland did not tell Claimant—and what is now clear was omitted on purpose—was that the Fund Counterparties did not own all of the Initial Restructuring Collateral they were expected to post. Instead, to meet this obligation, the Debtor exercised its control over other Highland affiliates, transferring and redirecting assets from such other entities that it controlled to assemble the Initial Restructuring Collateral. (Ex. A, Compl. ¶¶ 56-59.)

6. Similarly, while negotiating the restructured transaction, Highland provided Claimant with financial reports and statements that contained materially false and misleading information and omissions concerning the financial condition of the Fund Counterparties. (*Id.* ¶¶ 47-52.) The Debtor itself had prepared these financial statements and knew they contained material misstatements. (*Id.* ¶¶ 48-50, 54.) Among other things, Highland misrepresented the amount of cash held by CDO Fund. (*Id.* ¶ 52.) Highland also failed to disclose that many of the assets on the Fund Counterparties' financial statements already had been encumbered. (*Id.* ¶¶ 51, 53.) These misrepresentations not only evince a specific intent by Highland to induce Claimant into entering the restructured agreements, but a longstanding willingness to prevent Claimant from ever recovering the amounts owed under the parties' proposed agreements in the event the Knox Assets suffered any losses. In addition, these events show the Debtor's singular control over—and ability to move—assets from one Highland affiliate to another at will.

7. Based on Highland's material misstatements and omissions, Claimant agreed to pursue the restructured transaction and once more attempt the securitization, and the parties executed three new written agreements: an Engagement Letter, a Cash Warehouse Agreement, and a Synthetic Warehouse Agreement (collectively, the "**Warehouse Agreements**"). (*See* Ex. B, Decision at 3.) The Engagement Letter was executed by Claimant and the Debtor; the Fund Counterparties were not parties to the Engagement Letter. (Ex. A, Compl. ¶ 62.) The Cash Warehouse and Synthetic Warehouse Agreements were executed by Claimant and the Debtor, along with the Fund Counterparties. (*Id.* ¶¶ 64-65.)

8. As described above, Claimant agreed to finance the acquisition of the CLO and CDS assets that the parties planned to securitize. In so doing, the key risk Claimant faced was the possibility that the Knox Assets would lose value while securitization was pending. To address

this risk, Claimant and the Debtor agreed in the Engagement Letter that the Fund Counterparties would bear this risk. Notably, at the time, the Debtor was the Investment Manager to the Fund Counterparties under agreements that gave the Debtor total control over those entities. (Ex. A, Compl. ¶¶ 24, 26.)

9. The Warehouse Agreements reiterated that the Fund Counterparties (as controlled by the Debtor) would bear the risk, specifying that if the Knox Assets lost value while securitization was pending, the Fund Counterparties “will in aggregate bear 100% of the risk” for the Knox Assets—with CDO Fund bearing 51% of any losses and SOHC bearing the remaining 49%.

10. To further protect Claimant in the event that the Knox Assets lost value, the Warehouse Agreements provided for recurring measurements of mark-to-market losses on all assets in the Knox Warehouse and required the Fund Counterparties to post collateral in the event the Knox Assets lost a set amount of value. Specifically, the parties agreed that the Fund Counterparties would post an additional \$10 million in collateral for each \$100 million in losses to the overall value of the Knox Assets. (Ex. B, Decision at 4.)

11. In September and October 2008, amid the global economic recession, the value of the Knox Assets dropped by \$100 million, twice. Thus, Claimant twice exercised its contractual right to demand additional collateral. And twice Highland posted the required collateral. (*Id.*) Although the Warehouse Agreements specified that it was the Fund Counterparties who would post collateral, the Debtor moved assets around from other entities it controlled to make the first two collateral calls (without disclosing this practice to Claimant). (Ex. A, Compl. ¶ 79.) On or about November 7, 2008, Claimant issued a third margin call, because the value of the Knox Assets suffered additional losses of \$200 million (bringing the aggregate losses to over \$400 million).

(Ex. B, Decision at 4.) This time, Highland refused to provide the additional collateral required under the Warehouse Agreements.

12. Highland's default on Claimant's third margin call triggered a termination event under the Warehouse Agreements. (*Id.*) On December 5, 2008, Claimant gave Highland formal notice of default and demanded the Fund Counterparties pay Claimant for 100% of the losses incurred on the Knox Assets—which had, by then, grown to over \$520 million.

13. There is no question that the Debtor knew the Fund Counterparties were liable for the losses under the Warehouse Agreements. Indeed, the Highland officer who executed the Warehouse Agreements admitted under oath that, “as of the end of the year 2008,” Highland knew that the Fund Counterparties owed Claimant “hundreds of millions of dollars in connection with the Knox Warehouse Agreements.” (Travers Dep. at 261:8-20.) But rather than paying Claimant what it was owed, the Debtor, with Mr. Dondero at the helm, “devised a strategy to delay the resolution of that obligation [to pay Claimant] for as long as possible.” (*Id.*) To that end, Highland devised and subsequently deployed a multifaceted strategy—one that would last for many years thereafter—to intentionally frustrate and prevent Claimant from recovering any of the amounts that both the Debtor and the Fund Counterparties knew were rightfully owed to Claimant under the Warehouse Agreements.

14. First, the Debtor directed the Fund Counterparties to withhold any payment to Claimant—a position that the Fund Counterparties maintained (again, under the specific direction of the Debtor) for more than a decade. (*See id.*) The Debtor did so not only with the specific knowledge that the Fund Counterparties owed hundreds of millions of dollars to Claimant for the losses on the Knox Assets, but with the knowledge that Claimant would come seeking payment

for such losses and, in particular, to look toward any and all collateral owned by the Fund Counterparties as one source of payment. As one of Highland’s officers stated an internal email to Mr. Dondero in an internal email dated January 16, 2009: “[UBS] is going to be calling [] today asking for all additional collateral that cdo and sohc have left to cover the obligation left by the knock transaction.” But rather than turning over the collateral in question to Claimant or, at the very least, securing such assets so that they could be used to pay Claimant, the Debtor directed the Fund Counterparties to withhold such assets and payments from Claimant: “[T]hey can see us in court for their additional collateral.” True to that promise, even after Claimant filed suit and laid out the amounts due under the contracts, the Debtor forced the Fund Counterparties to launch an affirmative, multi-year campaign—one which would consume much of the cash and assets belonging to the Fund Counterparties themselves—to stave off any payment from the Fund Counterparties to force Claimant to try to recover such claims through litigation and, once in litigation, devising knowingly baseless defenses and arguments for the Fund Counterparties to assert in such litigation.

15. On top of directing the Fund Counterparties to withhold payment and force Claimant to litigate for amounts the Debtor already knew they rightfully owed to Claimant, the Debtor undertook a litany of other actions to ensure that, even if Claimant were successful in the litigation it had been forced to initiate against the Fund Counterparties, it would not be able to collect any judgment arising out of the litigation. Such actions included, but were not limited to, a series of fraudulent transfers out of, and away from, an alter ego of SOHC, Highland Financial Partners, L.P. (“**HFP**”). (Ex. A, Compl. ¶ 109.) These internal transfers of funds—all overseen by James Dondero, the Debtor’s founder and president—were designed to prevent Claimant from ever collecting the millions of dollars it was owed under the Warehouse Agreements.

16. In addition to such fraudulent transfers, the Debtor also took steps after the lawsuit was filed to ensure that no additional value would be transferred *to* the Fund Counterparties—deliberately taking steps to keep both SOHC and CDO Fund undercapitalized. Not only did the Debtor prevent additional value from being transferred to the Fund Counterparties, it is clear that the Debtor also failed to ensure that the Fund Counterparties retained assets that could be used to pay any such judgment. Quite to the contrary, it is now clear that any and all assets of any value that once belonged to the Fund Counterparties have, in one way or another, been transferred away, drained, or otherwise wasted by the Fund Counterparties, the Debtor itself, or the Debtor’s affiliates—all at the Debtor’s direction. Indeed, in a recent filing before this Court, the Debtor recently disclosed that both of the Fund Counterparties are completely “insolvent.” (Docket No. 687 at 1.) This means that—separate and apart from the transfers of assets out of, and away from, HFP that occurred in 2009—the Debtor has directed, or otherwise permitted, the Fund Counterparties to engage in acts that have left these once marque investment funds with literally *no* assets that can be used to pay Claimant. All such actions and omissions by the Debtor were performed with either the specific intent to prevent or frustrate Claimant’s ability to recover the amounts owed under the Warehouse Agreements, or a wanton and reckless disregard of Claimant’s rights to those amounts. Such actions and omissions constitute breaches of the Debtor’s duty of good faith and fair dealing under the Warehouse Agreements.

B. The State Court Action and the Debtor’s Efforts to Avoid Paying Claimant

17. On February 24, 2009, Claimant filed a complaint in the Supreme Court of the State of New York (the “**State Court**”) against the Debtor and the Fund Counterparties. With knowledge of Claimant’s lawsuit, the Debtor exercised its control over the Fund Counterparties to ensure they would not meet their obligations and to impede Claimant’s ability to recover the

amounts owed by those entities. (*Id.* ¶¶ 112, 114.) Rather than paying Claimant what it was owed, and as discussed above, the Debtor orchestrated an extensive multi-part strategy to delay resolution of Claimant’s claims for as long as possible. As a result, the Debtor further interfered with Claimant’s contractual rights, thereby breaching the covenants of good faith and fair dealing inherent in the Warehouse Agreements. (*Id.*)

18. By this time, the Fund Counterparties and SOHC’s alter ego, HFP, had become insolvent, although they still owned significant assets. (*Id.* ¶ 108.) Nonetheless, the Debtor failed to act in good faith to cause HFP to satisfy the debts, as much as possible, then owed to Claimant. Instead, the Debtor caused HFP to make additional improper and fraudulent asset transfers, deliberately kept the Fund Counterparties undercapitalized, and allowed all assets of any value to be drained from the Fund Counterparties—acts which not only impaired Claimant’s ability to recover anything from the Fund Counterparties, but precluded it altogether. (*Id.* ¶ 111.) In March 2009, conscious that Claimant had commenced an action against Highland a few weeks earlier, and in breach of their continuing duty of good faith and fair dealing, and with actual fraudulent intent, the Debtor and HFP caused asset transfers of millions of dollars of assets to the Debtor, Highland Credit Strategies Master Fund, L.P., Highland Crusader Offshore Partners, L.P., and Highland Credit Opportunities CDO, L.P. (now Highland Multi Strategy Credit Fund, L.P.) (collectively, the “**Affiliated Transferee Defendants**”), among others, thereby further reducing Highland’s abilities to meet their obligations to Claimant. (*Id.* ¶¶ 111, 113.) The Debtor and its principals exercised domination over the Fund Counterparties to improperly transfer substantial assets from the Fund Counterparties and HFP for their own personal gain, *i.e.*, solely and improperly to protect and enhance the value of the Debtor and its principals by wrongful and improper means. In the

process, the Debtor and its principals made it impossible for the Fund Counterparties to pay Claimant the losses that they and the Debtor had agreed they would pay under the Warehouse Agreements. (*Id.* ¶¶ 112-114.)

19. As Claimant learned about Highland's conduct through discovery, Claimant amended its complaint to assert additional claims and name additional Highland entities, including HFP, the Affiliated Transferee Defendants, and Strand Advisors, Inc. As amended and stated in its Second Amended Complaint (attached hereto as Exhibit A) in the State Court Action, filed on May 11, 2011, Claimant's claims include breach of contract claims directly against the Fund Counterparties, as well as claims for fraudulent inducement, breach of the duty of good faith and fair dealing, fraudulent conveyance, tortious interference, and declaratory judgments for alter ego liability against HFP and general partner liability against Strand Advisors, Inc. The Debtor subsequently brought counterclaims against Claimant for breach of contract and unjust enrichment. (*See* Ex. B, Decision at 35-37.)

20. The procedural history of the State Court Action is complex. The Debtor and its affiliates and Claimant filed, and the State Court ruled on, four sets of motions to dismiss. The Debtor and its affiliates then filed two sets of summary judgment motions, which led to a series of complex rulings by the State Court in 2017. The parties filed various interlocutory appeals of the State Court's rulings on the motions to dismiss and for summary judgment. Those appeals were heard by the Appellate Division for the First Judicial Department in the County of New York, with the Appellate Division issuing five decisions over this suit's protracted history (some of which are still subject to further appellate rights).

21. Also included in the Appellate Division's decisions was an order arising from an appeal of the State Court's ruling on Claimant's motion to restrain Defendants Highland Credit

Strategies Master Fund, L.P. and Highland Crusader Partners, L.P. from disposing of property received through the fraudulent transfers orchestrated by the Debtor. Claimant showed it had a likelihood of success on the merits of its fraudulent transfer claims, and the Appellate Division enjoined both Highland entities from disposing of their assets. Ultimately, these injunctions resulted in partial settlements between Claimant and Highland Credit Strategies Master Fund, L.P. and Highland Crusader Partners, L.P.

22. By early 2018, more than nine years after Claimant first filed suit, the parties were finally ready to proceed to trial. Due to a jury waiver clause in the Warehouse Agreements, however, and after related pre-trial briefing, the State Court bifurcated Claimant's claims into two distinct phases for trial: Phase I, consisting of a bench trial on Claimant's claims against the Fund Counterparties for breach of the Cash Warehouse and Synthetic Warehouse Agreements, as well as the Debtor's counterclaims; and Phase II, consisting of a jury trial on Claimant's remaining claims against all remaining Highland entities, including the Debtor.³ (Ex. B, Decision at 2 n.1, 38.)

23. The State Court presided over a thirteen-day bench trial for Phase I from July 9 through July 27, 2018. (*Id.* at 1.) On November 14, 2019, the State Court entered a Decision and Order on Phase I (attached hereto as Exhibit B), ruling in favor of Claimant on almost every issue presented in Phase I. In particular, the court found the Fund Counterparties liable to Claimant for breach of the Cash Warehouse and Synthetic Warehouse Agreements, found no liability on the part of Claimant for either of the Debtor's counterclaims, and rejected almost every one of the Debtor's offset arguments with the only remaining issue (affecting approximately \$70,500,000) to

³ Remaining claims are to be tried to a jury, with the court deciding liability as to the breach of the implied covenant of good faith and fair dealing claim and the jury deciding all remaining issues.

be determined after Phase II. (*Id.* at 39.) An Entry of Judgment on Phase I was entered on February 10, 2020. Under that Phase I final judgment, Claimant is entitled to \$1,039,957,799.44, consisting of \$519,374,149.00 in damages and \$520,583,650.44 in pre-judgment interest as of January 22, 2020, with additional interest of \$128,065 having accrued daily until the Entry of Judgment.

24. The next step in the State Court Action is Phase II of the trial, where Claimant's remaining claims against not only the Debtor, but also against other Highland affiliates are to be tried to a jury, with the court deciding liability as to the breach of the implied covenant of good faith and fair dealing claim and the jury deciding all remaining claims. (*Id.* at 2 n.1, 38.) The claims to be tried in Phase II include claims for breach of the implied covenant of good faith and fair dealing, fraudulent conveyances, and alter-ego liability. The specific amounts the two non-Debtor affiliates owe to Claimant for their breach of the Warehouse Agreements are now set forth and embodied in the final \$1 billion judgment from Phase I. And Claimant has stated claims against the Debtor—which was also a party to the same contract and exercised complete control over the two liable affiliates—under which Claimant is entitled to damages that are at least as much as the Phase I judgment amount. Claimant will seek damages for the Debtor's various breaches of the implied covenant as well as its specific role in the fraudulent transfer scheme, and pre-judgment interest and attorneys' fees where available. In addition, Claimant will seek punitive damages against the Debtor for its role in orchestrating the extended efforts to prevent Claimant from collecting the amounts owed under the Warehouse Agreements.

25. Currently, Phase II of the State Court Action is stayed against the Debtor by the automatic stay imposed pursuant to section 362 of the Bankruptcy Code when the Debtor commenced this Chapter 11 Case.

26. Claimant hereby asserts a claim, pending litigation of Phase II, for damages arising from the Debtor's breach of the implied covenant of good faith and fair dealing, its specific role in directing the fraudulent transfers of assets involving HFP, additional interest, further damages (including punitive damages), and attorneys' fees that may be awarded by any court at the conclusion of Phase II.

Reservation of Rights

27. Claimant does not waive or release, and expressly reserves, all rights and remedies at law or in equity that it has or may have against the Debtor, the Fund Counterparties, Strand Advisors, Inc., other non-Debtor Highland Defendants, or any other Debtor affiliate, subsidiary, person, or entity.

28. Claimant expressly reserves all of its rights to assert any additional claims, defenses, remedies, and causes of action, including without limitation, claims for fraudulent inducement, breach of contract, tortious interference with contractual relations, fraudulent conveyances, or alter ego recovery. Claimant further reserves all rights to amend, modify, supplement, reclassify, or otherwise revise its Proof of Claim at any time and in any respect, including, without limitation, as necessary or appropriate to amend, quantify or correct amounts, to provide additional detail regarding the claims set forth herein, to assert additional grounds for any of the claims, to seek reconsideration under section 502(j) of the Bankruptcy Code or otherwise of any disallowance of any amounts claimed hereunder, or to reflect any and all additional claims of whatever kind or nature that Claimant has or may have against the Debtor.

29. To the extent any payment to Claimant based on this Proof of Claim, or any portion thereof, is clawed back from Claimant, avoided, or set aside, for any reason whatsoever, or Claimant is required to disgorge any such payment, or any portion thereof, Claimant hereby reserves its rights to amend this Proof of Claim accordingly.

30. The execution and filing of this Proof of Claim is not intended as, nor should it be construed as or deemed to be any of the following: (i) a waiver of the right to seek withdrawal of the reference, or to otherwise challenge the jurisdiction of this Court, with respect to the subject matter of the claims asserted herein, any objection or other proceeding commenced with respect thereto, or any other action or proceeding commenced in this Chapter 11 Case against or otherwise involving Claimant; (ii) an admission that any matter is a core matter for purposes of 28 U.S.C. § 157(b) or is a matter as to which this Court can enter a final order or judgment consistent with Article III of the United States Constitution; (iii) a waiver of the right to *de novo* review by the district court of any order or judgment for which this Court, absent Claimant's consent, lacks authority to enter a final order or judgment; (iv) a consent to the entry by this Court of a final order or judgment with respect to the claims asserted herein or any other matter; (v) a waiver of Claimant's right to a jury trial against the Debtor, as applicable, or waiver of Claimant's right to a jury trial against any of the non-Debtor Defendants; (vi) a waiver or release of the claims or rights of Claimant against any other entity or person that may be liable for all or any part of the claims or any matters related to the claims asserted herein; (vii) a waiver of any rights and remedies Claimant has or may have under the Cash Warehouse and Synthetic Warehouse Agreements, Engagement Letter, or any other contract, whether mentioned in this Proof of Claim or not; (viii) a waiver of Claimant's contractual right to seek to have these or any other claims settled by binding arbitration; (ix) a waiver of any right related to the confirmation of any plan of reorganization proposed in this

Chapter 11 Case, or any other insolvency-related proceeding that may be commenced, either in the United States or abroad, by or against the Debtor, or any non-Debtor affiliate; (x) a waiver or agreement granting any party relief; or (xi) an election of remedies.

31. Neither this Proof of Claim nor any of its contents shall be deemed or construed as an acknowledgment or admission of any liability or obligation on the part of Claimant. Claimant specifically reserves all of its defenses and rights, procedural and substantive, including, without limitation, its rights with respect to any claim that may be asserted against Claimant by the Debtor, the Fund Counterparties, or any affiliate of the Debtor, and its rights to enforce the Cash Warehouse or Synthetic Warehouse Agreements, Engagement Letter, or any other contract.

Right of Setoff and Recoupment

32. Claimant reserves all rights of setoff and recoupment that it may have. To the extent the Debtor or any non-Debtor affiliate asserts any claim against Claimant, Claimant shall have a secured claim to the extent of its right of setoff under section 553 of the Bankruptcy Code or right of recoupment against such claim with respect to the claims asserted herein and any amendments thereto.

Notice

33. Copies of all notices and communications concerning this Proof of Claim should be sent to:

UBS Securities LLC
1285 Avenue of the Americas
New York, NY 10019
Attn: Suzanne Forster
Telephone: (212) 713-3432
Email: suzanne.forster@ubs.com

With a copy to:

John Lantz
UBS Securities LLC
1285 Avenue of the Americas
New York, NY 10019
Telephone: (212) 713-1371
Email: john.lantz@ubs.com

Andrew Clubok
Sarah Tomkowiak
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555 Eleventh Street, NW, Suite 1000
Washington, District of Columbia 20004
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Asif Attarwala
LATHAM & WATKINS LLP
330 N. Wabash Avenue, Ste. 2800
Chicago, Illinois 60611
Telephone: (312) 876-7700
Email: asif.attarwala@lw.com

Exhibit A

Second Amended Complaint

**CONFIDENTIAL MATERIAL SUBJECT TO THE STIPULATION
AND ORDER FOR THE PRODUCTION AND EXCHANGE
OF CONFIDENTIAL INFORMATION HAS BEEN REDACTED**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

UBS SECURITIES LLC and UBS AG, LONDON BRANCH,

Plaintiffs,

-against-

HIGHLAND CAPITAL MANAGEMENT, L.P., HIGHLAND
SPECIAL OPPORTUNITIES HOLDING COMPANY,
HIGHLAND CDO OPPORTUNITY MASTER FUND, L.P.,
HIGHLAND FINANCIAL PARTNERS, L.P., HIGHLAND
CREDIT STRATEGIES MASTER FUND, L.P., HIGHLAND
CRUSADER OFFSHORE PARTNERS, L.P., HIGHLAND
CREDIT OPPORTUNITIES CDO, L.P., and STRAND
ADVISORS, INC.,

Defendants.

Index No. 650097/2009
(I.A.S. Part 60, Fried, J.)

**SECOND AMENDED
COMPLAINT**

Plaintiffs, UBS Securities LLC (“UBSS”) and UBS AG, London Branch (“UBS AG”) (collectively, “UBS”), for their Second Amended Complaint allege against defendants Highland Special Opportunities Holding Company (“SOHC”), Highland CDO Opportunity Master Fund, L.P. (“CDO Fund,” and together with SOHC, the “Fund Counterparties”), Highland Financial Partners, L.P. (“Highland Financial”), Highland Credit Strategies Master Fund, L.P. (“Credit Strategies”), Highland Crusader Offshore Partners, L.P. (the “Crusader Fund”), Highland Credit Opportunities CDO, L.P. (the “Credit Opp. Fund”), and Strand Advisors, Inc. (“Strand”), as follows:


NATURE OF THE ACTION

1. UBS brings this action to recover damages in excess of \$686 million resulting from the wrongful conduct of defendants, based on causes of action for fraudulent inducement, breach of contract, fraudulent conveyances, and declaratory judgment.

000877

2. Counterclaim-plaintiff Highland Capital Management, L.P. (“Highland Capital”) is a defendant in the action commenced by UBS (the “Highland Capital Action”) concurrently with the filing of the First Amended Complaint in this action. The Highland Capital Action was consolidated with this action by a Decision and Order, entered by this Court on October 7, 2010 (this action and the Highland Capital Action are referred to herein as the “Consolidated Action”). Together with Highland Capital, the Fund Counterparties fraudulently induced UBS to restructure a transaction to avoid Highland Capital’s and the Fund Counterparties’ contractual obligation to pay UBS over \$86 million. Once Highland Capital and the Fund Counterparties succeeded in misleading UBS into restructuring the original transaction, Highland Capital and its affiliates made it impossible for the Fund Counterparties to meet their obligations to UBS by stripping the Fund Counterparties of their valuable assets through fraudulent conveyances and otherwise dealing in bad faith with their contractual obligations to UBS.

3. When UBS finally terminated the restructured transaction and demanded payment from Highland Capital and the Fund Counterparties, it was owed in excess of \$686 million that the Fund Counterparties could not pay because of the misappropriations and improper transfers of assets directed by Highland Capital and the Fund Counterparties. Even after UBS demanded payment, Highland Capital and defendants engaged in further unlawful conduct that harmed UBS by



SUMMARY OF THE ACTION

4. This action arises out of Highland Capital's efforts in the Spring of 2007 to sponsor a collateralized debt obligation ("CDO") securitization (the "Original Engagement"). In connection with the Original Engagement, UBS agreed to finance the purchase of various collateralized loan obligation ("CLO") securities, as well as credit default swap obligations that referenced similar CLO securities. UBS agreed to hold or "warehouse" the CLO securities and credit default swaps (collectively, the "Warehouse Assets" or "Warehouse Facility") for Highland Capital's benefit.

5. On or about August 15, 2007, the Original Engagement terminated by its terms without the contemplated securitization having occurred. As a result of the termination, Highland Capital and two of its affiliates, the Fund Counterparties, owed UBS in excess of \$86 million related to the decline in the value of the Warehouse Assets.

6. Instead of paying UBS what it was owed, Highland Capital and the Fund Counterparties fraudulently induced UBS to restructure the Original Engagement by providing UBS with false, incomplete and otherwise misleading information concerning the Fund Counterparties' finances and assets. Using both affirmative material misrepresentations and omissions (material facts or information needed to be disclosed to make the statements actually made not misleading, and which were not disclosed, are referred to hereinafter as "Omissions"), Highland Capital, its principals and the Fund Counterparties misled UBS regarding the financial health of the Fund Counterparties and their creditworthiness, thereby causing UBS to forego recovering its losses from Highland Capital in favor of agreeing to restructure the terms of the parties' prior agreements (the "Restructured Transaction").

7. For example, the strength of the Fund Counterparties' financial statements, and their purported ability to use the hundreds of millions of dollars worth of assets

reflected therein to satisfy future obligations to UBS under the Warehouse Agreements were material to UBS's decision to agree to the restructuring. Consequently, in connection with negotiating the Restructured Transaction, UBS conditioned any restructuring on the Fund Counterparties' ability to post \$70 million in cash and securities as collateral (the "Initial Restructuring Collateral") with State Street Bank and Trust Company ("State Street"), in which UBS would hold a security interest.

[REDACTED]

Highland Capital and the Fund Counterparties were able to conceal important information about the Fund Counterparties' financial weakness that was both quantitatively and qualitatively material to UBS, and which would have caused UBS not to enter the Restructured Transaction.

8. Similarly, while negotiating the Restructured Transaction, Highland Capital and the Fund Counterparties provided UBS with financial reports and statements for the Fund Counterparties. The financial information that Highland Capital and the Fund Counterparties provided to UBS contained materially false and misleading information and Omissions concerning the financial condition of the Fund Counterparties. Among other things,

[REDACTED]

9. In reliance on material misstatements and Omissions made by Highland Capital and the Fund Counterparties, UBS agreed to restructure the Original Engagement, and

thereby were fraudulently induced to give up contractual rights under the terms of the Original Engagement. In particular, UBS reasonably and justifiably relied on misrepresentations and Omissions of facts and information solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to believe that Highland Capital and its affiliates would provide it with false, incomplete or otherwise misleading information about the Fund Counterparties' finances and assets, as they in fact did.

10. Had UBS known that the Fund Counterparties could not [REDACTED], [REDACTED], it would not have gone forward with the Restructured Transaction. UBS never would have agreed to the Restructured Transaction had it known prior to entering the Restructured Transaction the true status of the Fund Counterparties' financial condition and the true fair market value of the Fund Counterparties' holdings that would have been available to satisfy their then-existing and future obligations to UBS. UBS's losses described herein were directly and proximately caused by the conduct of Highland Capital and the defendants as described herein.


11. Almost immediately after UBS agreed to the Restructured Transaction, Highland Capital began the process of making it impossible for the Fund Counterparties to ever repay UBS what they owed. In particular, exercising its control over the Fund Counterparties, Highland Capital caused the Fund Counterparties to transfer cash for the benefit of Highland Capital and its principals, and, separately, in violation of UBS's rights, [REDACTED], [REDACTED], all during a time when the Fund Counterparties owed UBS hundreds of millions of dollars.


12. For example, in or around May 2008, Highland Capital caused the dissipation of approximately \$100 million in cash that CDO Fund held after it sold a long position in a company called SunCom Wireless. Highland Capital drained CDO Fund's cash resources despite CDO Fund's ever-increasing obligations to UBS. Highland Capital's bad faith conduct caused injury to UBS by making it impossible for the Fund Counterparties to satisfy their contractual obligations to UBS.

13. In September 2008, as losses in the Warehouse Facility continued to grow, UBS began to exercise its contractual rights and make margin calls demanding additional collateral from the Fund Counterparties. Because Highland Capital had routinely taken cash out of the Fund Counterparties, the Fund Counterparties were undercapitalized and lacked assets and liquidity to meet UBS's demands for additional collateral.

14. Highland Capital and its principals, including its president and founder, James D. Dondero, knew that if the Fund Counterparties defaulted on their obligations to UBS (or any other creditor), Highland Capital's ability to conduct business in the financial community and to keep or solicit investors would be harmed. Investors in Highland Capital's hedge fund family would withdraw their investments. In addition, creditors would take actions to protect themselves, including foreclosing on collateral and aggressively enforcing their contractual rights. Highland Capital and its principals were concerned that upon the disclosure of the true state of their affairs, their business would collapse.

15. To avoid that result, Highland Capital and its principals resorted to

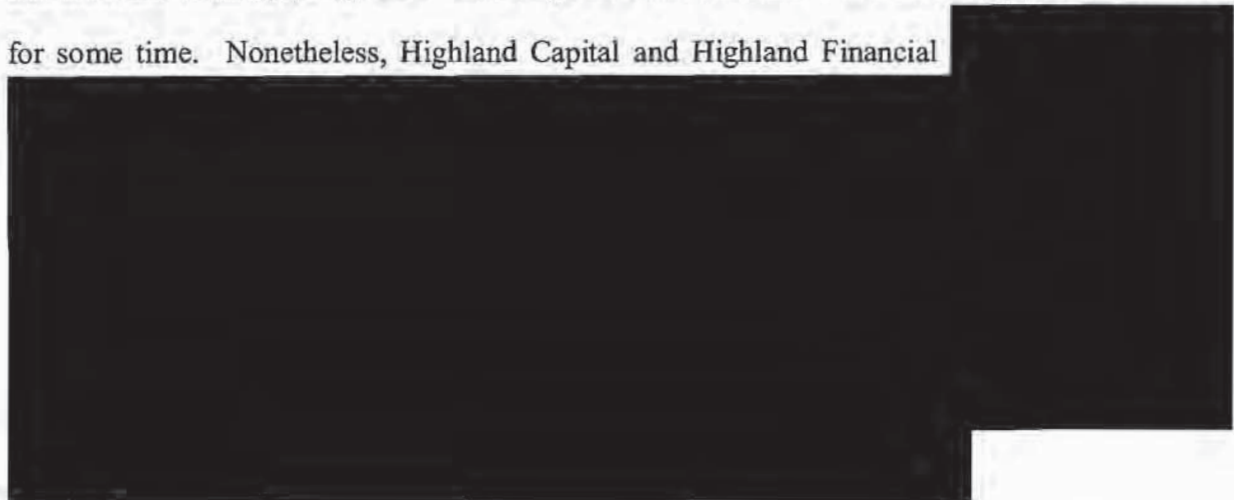




16. Highland Capital's and its principals' belated attempt to protect their reputation by continuing to fraudulently portray the Fund Counterparties as viable independent entities was ultimately unsuccessful. By late October 2008, Highland Capital could no longer continue to prop up the Fund Counterparties.

17. On or about November 11, 2008, UBS demanded additional collateral from the Fund Counterparties. The Fund Counterparties defaulted. On December 3, 2008, UBS terminated the Restructured Transaction. As a result of UBS's termination of the Restructured Transaction, the Fund Counterparties were contractually obligated to pay UBS in excess of \$686 million.

18. On or about February 24, 2009, UBS filed the original complaint in this Court against the Fund Counterparties for breach of the Warehouse Agreements that had been entered in connection with the Restructured Transaction. By that time, the Fund Counterparties and SOHC's alter ego, Highland Financial, had been insolvent and unable to pay their creditors for some time. Nonetheless, Highland Capital and Highland Financial



19. In sum, after fraudulently inducing UBS to agree to the Restructured Transaction, Highland Capital and its principals exercised their domination over the Fund Counterparties to improperly transfer substantial assets from the Fund Counterparties for their own personal gain, *i.e.*, solely and improperly to protect and enhance the value of Highland Capital and its principals by wrongful and improper means. In the process, they made it impossible for the Fund Counterparties to pay UBS the losses they had agreed to pay on the Warehouse Facility.

THE PARTIES

A. The Plaintiffs

20. Plaintiff UBS AG, London Branch, is a banking corporation organized under the laws of Switzerland with its principal place of business at Finsbury Avenue, London, United Kingdom.

21. Plaintiff UBSS is a limited liability company organized under the laws of Delaware with its principal places of business at 677 Washington Blvd., Stamford, Connecticut, and 299 Park Avenue, New York, New York.

B. Highland Capital

22. Highland Capital Management, L.P. (“Highland Capital”) is a limited partnership organized under the laws of Delaware, with its principal place of business at 13455 Noel Road, Suite 800, Dallas, Texas 75240, and an office at 9 West 57th Street, New York, New York. Highland Capital is registered to do business in New York. Highland Capital describes itself as a 100% employee-owned partnership. Highland Capital is an investment adviser that manages a large number of investment entities that operate as hedge funds for Highland Capital’s principals and affiliates, as well as unaffiliated investors. Highland Capital currently manages

over \$25 billion in various assets, including structured financial products. Highland Capital also holds direct and indirect equity and ownership interests in the entities that it manages, including in Highland Financial, the Fund Counterparties and the Affiliated Transferee Defendants. James D. Dondero is the President of Highland Capital, as well as one of its founders. Concurrently with filing the First Amended Complaint in this Action, UBS commenced a separate action against Highland Capital (the “Highland Capital Action”). The Highland Capital Action was later consolidated with this action by a Decision and Order, entered by this Court on October 7, 2010 (this action and the Highland Capital Action are referred to herein as the “Consolidated Action”).

C. The Defendants

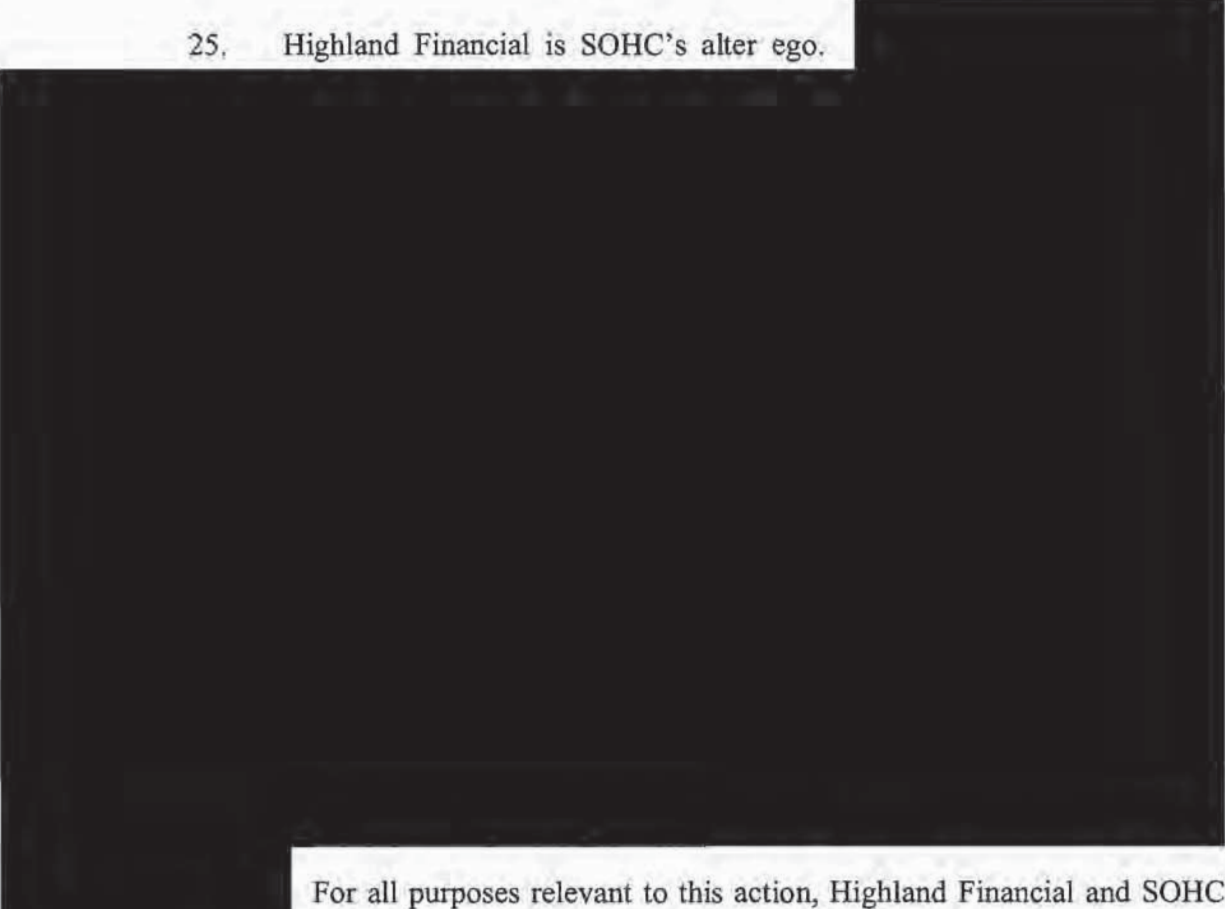
1. Defendant Strand

23. Defendant Strand Advisors, Inc. (“Strand”) is Highland Capital’s general partner. Strand is a Delaware corporation principally engaged in the business of serving as the general partner of Highland Capital. As Highland Capital’s general partner, Strand is responsible for Highland Capital’s liabilities and obligations and regularly conducts business in New York, or causes its affiliates to conduct business in New York.

2. Defendants Highland Financial and SOHC

24. Highland Special Opportunities Holding Company (“SOHC”) is a company organized under the laws of the Cayman Islands, with its offices at Walker House, PO Box 908GT, Mary Street, George Town, Grand Cayman, Cayman Islands. SOHC is a wholly-owned subsidiary of defendant Highland Financial Partners, L.P. (a Delaware limited partnership) (“Highland Financial”). SOHC has six sister subsidiaries, all of which are owned in whole or in part by Highland Financial. Highland Capital serves as investment manager to defendant Highland Financial, SOHC and its sister subsidiaries.

25. Highland Financial is SOHC's alter ego.



For all purposes relevant to this action, Highland Financial and SOHC should be treated as a single entity and as alter egos of one another.

3. Defendant CDO Fund

26. Defendant Highland CDO Opportunity Master Fund, L.P. ("CDO Fund") is a Bermuda exempted limited partnership, with its principal place of business at 52 Reid Street, Hamilton, Bermuda. Highland Capital controls CDO Fund's investment decisions through an investment management agreement. Between January 31, 2007 and August 31, 2008, Highland Capital's and its affiliates' aggregate ownership interest in CDO Fund ranged between 43.36% and 56.44%. Highland CDO Opportunity Fund, L.P. and Highland CDO Opportunity Fund, Ltd. serve as so-called "feeder funds" for defendant CDO Fund.

4. **The Affiliated Transferee Defendants** [REDACTED]

27. Defendant Highland Credit Strategies Master Fund, L.P. (“Credit Strategies”) is a Bermuda limited partnership organized with its principal place of business at Victoria Place, 31 Victoria Street, Hamilton HM10, Bermuda. Credit Strategies transacts business within New York, and derives substantial revenue from interstate and international commerce.

28. Defendant Highland Crusader Offshore Partners, L.P. (the “Crusader Fund”) is a Bermuda limited partnership with its principal place of business at Victoria Place, 31 Victoria Street, Hamilton HM10, Bermuda. The Crusader Fund also has an office located at 13455 Noel Road, Suite 800, Dallas, Texas 75240. The Crusader Fund transacts business within New York, and derives substantial revenue from interstate and international commerce.

29. Defendant Highland Credit Opportunities CDO, L.P. (the “Credit Opp. Fund”) is a Delaware limited partnership with its principal place of business at 13455 Noel Road, Suite 800, Dallas, Texas 75240.

30. Credit Strategies, the Crusader Fund and the Credit Opp. Fund are referred to herein collectively as the “Affiliated Transferee Defendants” [REDACTED]

D. Non-Parties Affiliated With Highland Capital In Which The Fund Counterparties Invested

31. The Fund Counterparties held investments in several Highland Capital-affiliated funds, including Highland Credit Opportunities CDO, L.P., Highland Legacy, Highland Loan Funding V, Highland Park CDO I, Ltd., Highlander Euro CDO B.V. and Highlander Euro

CDO III B.V. Highland Capital served as the investment manager for these affiliated funds, and received valuable fees derived from the valuations of these funds' assets, which it managed.

JURISDICTION AND VENUE

32. Venue in this Court is proper under CPLR 503 because plaintiff UBSS has a principal place of business in New York County.

33. Venue is also proper under CPLR 501, and this Court may exercise jurisdiction over the Fund Counterparties because UBS, Highland Capital and the Fund Counterparties all agreed in writing, before this action was commenced, to submit to such jurisdiction and venue, in connection with any dispute that may arise out of, in connection with, or related to, the Agreements (defined below), or any of the matters contemplated thereby. This Court also may exercise jurisdiction over Highland Financial because it is the alter ego of SOHC.

34. This Court also may exercise jurisdiction over all defendants pursuant to CPLR 301 and 302(a)(1) and (3), because defendants regularly transact and solicit business in New York, committed tortious acts causing injury in New York, should reasonably have expected that their tortious acts would have consequences in New York, the effect of their wrongful conduct was felt in New York, and/or derive substantial revenue from interstate or international commerce. Additionally, Highland Capital has an office in New York and is a foreign limited partnership registered to do business in New York.

FACTUAL BACKGROUND

A. The Original Engagement

35. In or around April 2007, Highland Capital approached UBS for short-term financing in connection with a securitization that Highland Capital wanted to sponsor. UBS agreed to do so (the "Original Engagement").

36. On or about April 20, 2007, UBSS and Highland Capital entered into an engagement letter (the “Original Engagement Letter”), which contemplated that UBSS would act as the exclusive financial arranger and placement agent for a type of collateralized debt obligation transaction (“CDO”), known as a collateralized loan obligation (“CLO”) squared or “CLO Squared” transaction. (A copy of the Original Engagement Letter is annexed hereto as Exhibit A.)

37. CLOs are a form of securitization where interest and principal payments on corporate loans made to multiple mid-sized and large businesses are pooled together by a lender or the owner of the loans, and then passed on through a securitization structure to investors. CLOs typically involve multi-million dollar loans known as syndicated loans, or leveraged loans made to new businesses or existing businesses, often to acquire other companies. The loan originators are able to spread risk through the CLO securitization, and simultaneously free up capital to make new loans to other businesses. The Original Engagement contemplated the securitization of CLO securities. Thus, the securitization contemplated by Highland Capital would have been a “CLO Squared” transaction.

38. On or about May 22, 2007, as contemplated by the Original Engagement Letter, UBSS and Highland Capital entered into a warehouse agreement (the “Original Cash Warehouse Agreement”). (A copy of the Original Cash Warehouse Agreement is annexed hereto as Exhibit B.) In accordance with the terms of the Original Engagement Letter and the Original Cash Warehouse Agreement, UBSS agreed to acquire securities as directed by Highland Capital. Highland Capital instructed UBS to acquire various CLO securities issued in connection with prior CLO transactions involving other sponsors and issuers (the “Cash Portfolio”).

39. In a separate but related synthetic warehouse agreement (the “Original Synthetic Warehouse Agreement,” and together with the “Original Cash Warehouse

Agreement,” the “Original Warehouse Agreements”), UBS AG agreed to enter into credit default swaps (the “CDS Portfolio,” and together with the Cash Portfolio, the “Warehouse Assets”), pursuant to which UBS AG sold credit protection to various third parties. (A copy of the Original Synthetic Warehouse Agreement is annexed hereto as Exhibit C.)

40. For Highland Capital’s benefit, UBS held the Warehouse Assets on its balance sheet (the “Warehouse Facility”). UBS was expected to hold the Warehouse Assets until such time as the parties could arrange for the assets to be securitized as part of the contemplated securitization. In particular, if the parties believed that a securitization was economically feasible, they would create a special purpose entity that would acquire the Warehouse Assets from UBS using the proceeds from the sale of securities to investors. The special purpose entity’s debt securities would be secured by those Warehouse Assets.

41. Under the Original Warehouse Agreements, if the Original Engagement terminated without a securitization, Highland Capital and the Fund Counterparties were obligated to pay UBS for losses on the Warehouse Assets. In particular, under the terms of the Original Cash Warehouse Agreement, Highland Capital was directly responsible for the first \$50 million in losses in the Cash Portfolio, and under the terms of the Original Synthetic Warehouse Agreement, the Fund Counterparties were obligated to pay UBS for any and all losses suffered on the CDS Portfolio.

42. The Original Engagement Letter expired by its terms on August 15, 2007 without a securitization occurring. The Original Warehouse Agreements expired on the same date in accordance with their respective terms.

43. As of August 15, 2007, the Warehouse Assets in the Warehouse Facility had lost in excess of \$86 million in value. Although they had sufficient capital to do so,

Highland Capital and the Fund Counterparties failed and refused to pay UBS what it was owed under the Original Warehouse Agreements.

44. As a result of extensive negotiations as well as representations and warranties made by Highland Capital on its own behalf, and on behalf of the Fund Counterparties as their investment manager, UBS agreed to restructure the terms of the Original Engagement.

B. Highland Capital And The Fund Counterparties Resort To Fraud To Avoid Highland Capital's Obligations To UBS

45. As alleged above, as a result of the termination of the Original Engagement, Highland Capital was directly liable to UBS under the Original Warehouse Agreement for in excess of \$86 million.

46. Between August 2007 and March 14, 2008, UBS, Highland Capital and the Fund Counterparties had discussions and negotiations concerning a restructuring of the terms of the Original Engagement. Those negotiations resulted in agreements to restructure the Original Engagement (the "Restructured Transaction"), including a release by UBS of its claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement. (The terms of the Restructured Transaction are set forth in the Engagement Letter and Warehouse Agreements described below (collectively, the "Agreements"), which are annexed hereto as Exhibits D, E and F, respectively.)

47. During the course of negotiations and before March 14, 2008, Highland Capital and Fund Counterparties made several material misrepresentations to UBS concerning the creditworthiness of the Fund Counterparties. Dondero, Highland Capital and the Fund Counterparties also failed to disclose to UBS information which would have been material to UBS's decision to enter the Restructured Transaction ("Omissions," as defined above). As

Highland Capital and the Fund Counterparties knew, UBS reasonably relied upon those material misrepresentations and, due to the Omissions, a misstated assessment of the Fund Counterparties, all to its detriment in deciding whether to enter the Restructured Transaction. UBS reasonably and justifiably relied on these misrepresentations and Omissions of facts and information that were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS reasonably believed that Highland Capital and the Fund Counterparties would not provide it with false, incomplete or otherwise misleading information about the Fund Counterparties' finances and assets as it in fact did.

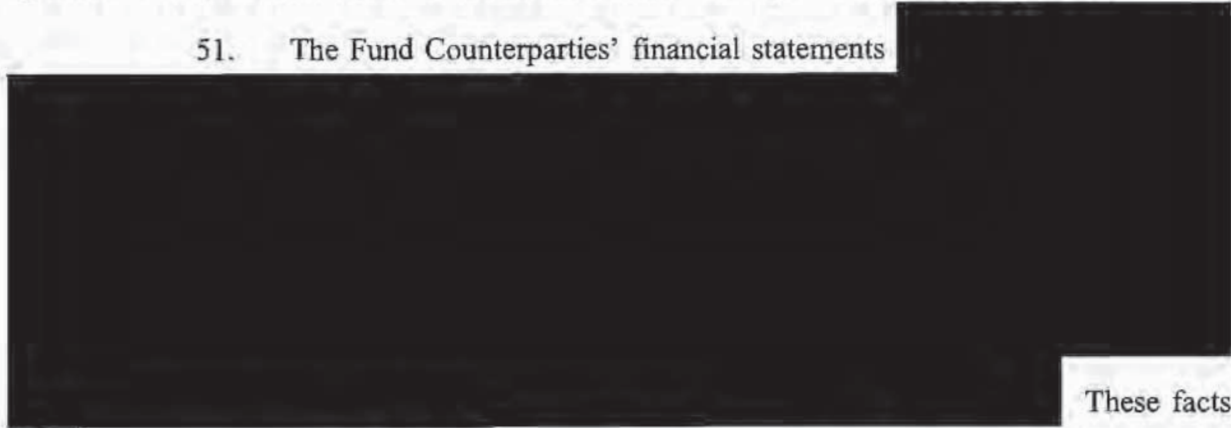
48. For example, on or about December 28, 2007, to induce UBS to enter the Restructured Transaction and related Agreements, Gibran Mahmud of Highland Capital sent SOHC financial statements to UBS. On or about January 29, 2008, UBS requested additional financial information related to SOHC. Later that same day, to induce UBS to enter the Restructured Transaction and related Agreements, Phil Braner of Highland Capital emailed UBS a copy of SOHC's Statement of Financial Condition, dated December 31, 2007.

49. As described with more particularity below, the SOHC financial information that Highland Capital and the Fund Counterparties provided to UBS, which Highland Capital was responsible for preparing, was materially false and misleading. Highland Capital and the Fund Counterparties knew that UBS would rely upon SOHC's financial information in connection with deciding whether to agree to the Restructured Transaction and the terms of the Agreements being negotiated.

50. On or about February 4, 2008, Matt Killebrew of Highland Capital provided UBS with financial reports via email that reflected financial summaries, and aggregate

valuations for CDO Fund's assets as of December 31, 2007. On or about March 4, 2008, Mr. Killebrew sent UBS similar reports for the period ended January 31, 2008. As described with more particularity below, these financial reports, which Highland Capital prepared, also were materially false and misleading. Highland Capital and the Fund Counterparties knew that UBS would rely upon CDO Fund's financial information in connection with deciding whether to agree to the Restructured Transaction and the terms of the Agreements being negotiated.

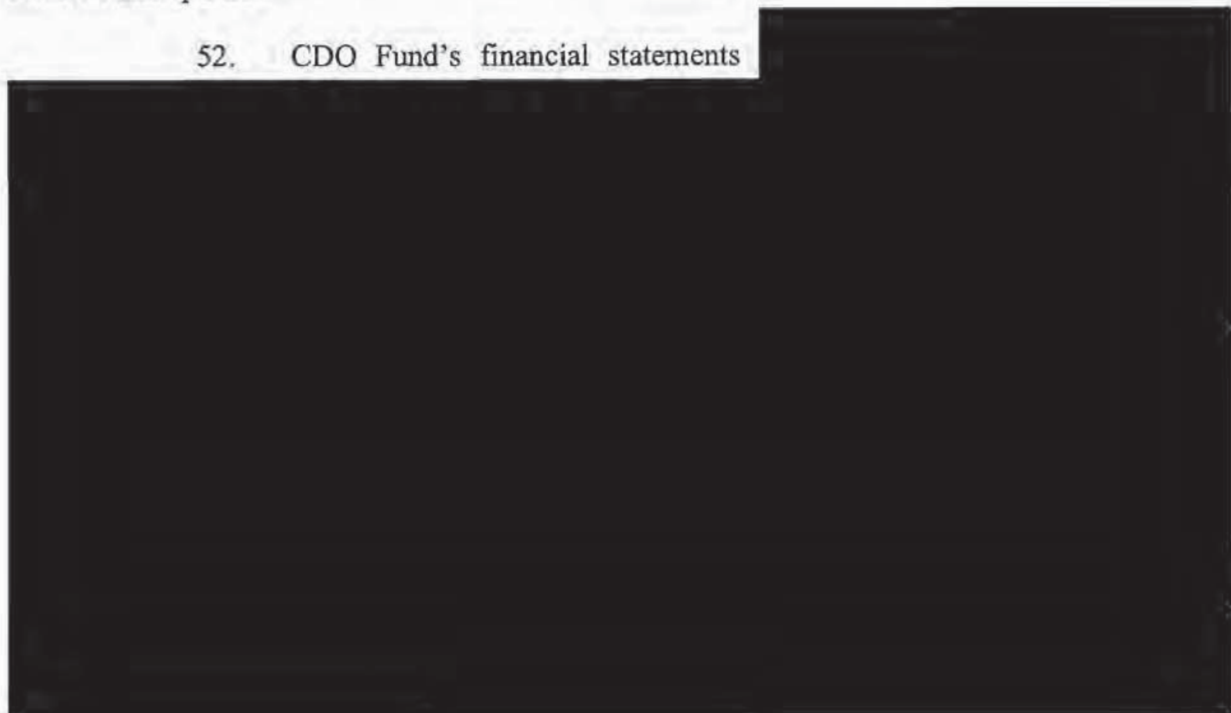
51. The Fund Counterparties' financial statements



These facts

and information were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties.

52. CDO Fund's financial statements



[REDACTED]

53. Similarly, Highland Capital and the Fund Counterparties concealed from UBS the fact that the Fund Counterparties [REDACTED]

[REDACTED]

54. In addition, the Fund Counterparties' financial statements that Highland Capital and the Fund Counterparties provided to UBS in advance of the Restructured Transaction

contained [REDACTED]

[REDACTED]

55. During the course of negotiations concerning the restructuring, UBS also insisted that the Fund Counterparties have the ability to post \$70 million in cash and securities as collateral, which would be held at State Street Bank (the "Initial Restructured Transaction Collateral"), and in which UBS would hold a security interest. The Fund Counterparties' ability to do so using their own assets was qualitatively and quantitatively material to UBS. Among other things, it demonstrated the strength of their balance sheets, and by extension, their ability to satisfy future obligations to UBS.

56. Highland Capital and the Fund Counterparties agreed that the Fund Counterparties would post \$70 million in Initial Restructuring Collateral.

[REDACTED]

57.

[REDACTED]

[REDACTED]

58.

[REDACTED]

As the Fund Counterparties'

investment manager, Highland Capital maintained the Fund Counterparties' accounting records, and knew

[REDACTED]

Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to believe, and reasonably did not believe, that Highland Capital would provide it with false, incomplete or otherwise misleading information about

[REDACTED]

59. If UBS had known that the Fund Counterparties

[REDACTED]

[REDACTED] It also
would have drawn into question the Fund Counterparties' liquidity.
[REDACTED]

60. But for Dondero's, Highland Capital's and the Fund Counterparties' false and misleading statements and Omissions concerning the Fund Counterparties' finances and assets, and [REDACTED] UBS would not have entered into the Restructured Transaction or the Agreements that memorialized its terms. Given the Fund Counterparties' weak credit quality, additional adverse information about their collective or individual creditworthiness would have deterred UBS from going forward with the Restructured Transaction and putting more assets at risk. These misrepresentations and Omissions proximately caused harm to UBS.

61. UBS would not have entered into a transaction with parties that made misrepresentations as Highland Capital and the Fund Counterparties did. UBS also would not have agreed to release its valuable claims arising out of the Original Engagement under such circumstances. Because of, and in reliance on, the false and misleading information about the Fund Counterparties provided by Dondero, Highland Capital and the Fund Counterparties, UBS entered into the Restructured Transaction memorialized in the Agreements. Because each of the misrepresentations and Omissions identified above disguised the Fund Counterparties' inability to satisfy their obligations to UBS, the misrepresentations and Omissions proximately caused harm to UBS.

C. The Restructured Transaction Agreements

1. The Engagement Letter

62. On or about March 14, 2008, the parties reached agreement on the terms of a restructured engagement, which were memorialized in a new engagement letter (the “Engagement Letter,” annexed hereto as Exhibit D). Pursuant to the Engagement Letter, Highland Capital re-engaged UBSS to act as placement agent in the event that market conditions improved, and the parties could go forward with securitizing the Warehouse Assets already held by UBS in the Warehouse Facility. UBS agreed to continue holding the Warehouse Assets in the Warehouse Facility, which had a notional value of approximately \$818 million.

63. Under the terms of the Engagement Letter, UBS released claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement.

2. The Restructured Warehouse Agreements

64. On March 14, 2008, UBSS, the Fund Counterparties and Highland Capital also entered into a cash warehouse agreement (the “Cash Warehouse Agreement”), pursuant to which UBSS agreed to continue to hold the Cash Portfolio. (A true and correct copy of the Cash Warehouse Agreement is annexed hereto as Exhibit E.)

65. UBS AG, the Fund Counterparties and Highland Capital also entered into a synthetic warehouse agreement, dated as of March 14, 2008 (the “Synthetic Warehouse Agreement,” and together with the Cash Warehouse Agreement, the “Warehouse Agreements”), pursuant to which UBS AG agreed to continue warehousing credit protection that it sold, *i.e.*, the CDS Portfolio. (A true and correct copy of the Synthetic Warehouse Agreement is annexed hereto as Exhibit F.)

66. Section 13(B) of the Cash Warehouse Agreement and § 11(B) of the Synthetic Warehouse Agreement make Highland Capital liable for losses, including losses in the

Warehouse Facility, by reason of acts or omissions constituting bad faith, willful misconduct, or gross negligence.

67. Under § 12 of the Synthetic Warehouse Agreement, the Fund Counterparties agreed to transfer to State Street the Initial Restructuring Collateral to partially secure their respective obligations to UBS under the Warehouse Agreements. Annex C to the Synthetic Warehouse Agreement identified the six assets that the Fund Counterparties purportedly transferred to State Street to satisfy their Initial Restructuring Collateral obligations, along with \$20 million in cash.

68. The Warehouse Agreements also contained releases whereby UBS agreed to release claims it had against Highland Capital and the Fund Counterparties for losses arising out of the Original Engagement.

D. Highland Capital Uses Its Control Over The Fund Counterparties To Dissipate Their Assets Without Regard For The Fund Counterparties' Growing Obligations To UBS

69. Almost immediately after the Restructured Transaction Agreements were executed, Highland Capital and the Fund Counterparties knowingly began to dissipate the Fund Counterparties' assets and make it impossible for the Fund Counterparties to ever repay UBS what they owed. Highland Capital and the Fund Counterparties did so at various times when the Fund Counterparties owed UBS hundreds of millions of dollars.

70. For example, on or about March 26, 2008, just days after entering the Restructured Transaction, Highland Capital caused certain SOHC assets to be encumbered by entering into a transaction with Barclays Bank, plc. ("Barclays"). At or around the same time, CDO Fund was negotiating financing arrangements with Morgan Stanley & Co. International Ltd. and Highland Capital IV SPC, whereby it granted a security interest in its assets to those entities. By granting a security interest in the Fund Counterparties' assets to other creditors,

Highland Capital unfairly and improperly reduced the assets available to satisfy the Fund Counterparties' obligations to UBS in bad faith and in violation of UBS's rights.

71. Similarly, on or about April 2, 2008, Highland Capital advised UBS that defendant CDO Fund had recently monetized a \$129 million long position in SunCom Wireless. When Highland Capital and CDO Fund subsequently provided UBS with additional financial information about CDO Fund, however, UBS discovered that Highland Capital had caused CDO Fund to transfer approximately \$100 million of the cash proceeds from the SunCom Wireless sale out of CDO Fund.

72. By improperly removing such a substantial amount of cash from CDO Fund, Highland Capital interfered in bad faith with CDO Fund's ability to satisfy its steadily increasing financial obligations to UBS. In particular, in or around May 2008, when the cash proceeds from the SunCom Wireless position were siphoned off, the Fund Counterparties owed UBS in excess of \$166 million related to losses in the Warehouse Facility, approximately 50% of which CDO Fund was obligated to pay.

73. Highland Capital also repeatedly caused SOHC's cash to be transferred by defendant Highland Financial. In particular, during the first five months of 2008, SOHC's cash position was reduced by over \$10 million at a time when its obligations to UBS were increasing substantially.

E. In the Fall of 2008, Losses Mount And The Fund Counterparties Face Collateral Calls From Creditors Including UBS That They Cannot Meet Despite Highland Capital's Belated Efforts To Do So [REDACTED]

74. Under the terms of the Warehouse Agreements, the Fund Counterparties were required to post additional collateral with UBS if the combined market value of (a) the

Warehouse Assets and (b) the Initial Restructured Transaction Collateral, declined below a certain amount.

75. By September 2008, losses in the Warehouse Facility had increased significantly. At the same time, the value of the Initial Restructuring Collateral had declined substantially, as had the value of the assets held by the Fund Counterparties.

76. Highland Capital was desperate to avoid a default by any of its affiliates, including the Fund Counterparties. If a Highland Capital affiliate defaulted on its obligations to a creditor, Highland Capital's reputation in the investment community would be damaged, and there was a risk that Highland Capital's business would collapse. Highland Capital feared that a public default would lead investors in Highland Capital's hedge fund family to withdraw their capital, and lead creditors to take aggressive actions to protect themselves, including foreclosing on collateral and aggressively enforcing their contractual rights.

1. The First Margin Call

77. On or about September 16, 2008, as losses in the Warehouse Facility continued to grow, UBS began to exercise its contractual rights and make margin calls demanding additional collateral from the Fund Counterparties. Specifically, UBS notified Highland Capital and the Fund Counterparties that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund Counterparties were each required to post \$10 million in cash or equivalent securities (the "First Margin Call").

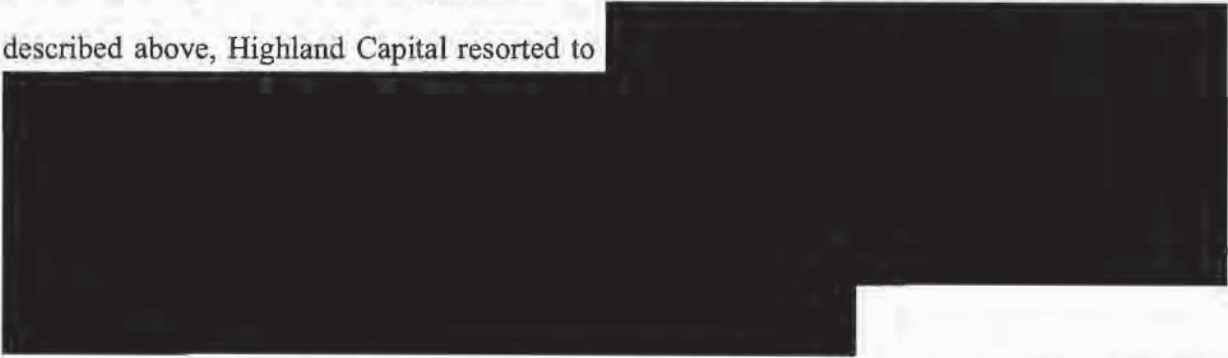
78. Because Highland Capital had routinely drained cash from the Fund Counterparties, the Fund Counterparties lacked the liquidity to meet UBS's demands using their own assets.

79. On or about September 19, 2008, the Fund Counterparties satisfied the First Margin Call by together posting \$20 million in cash as additional collateral. [REDACTED]



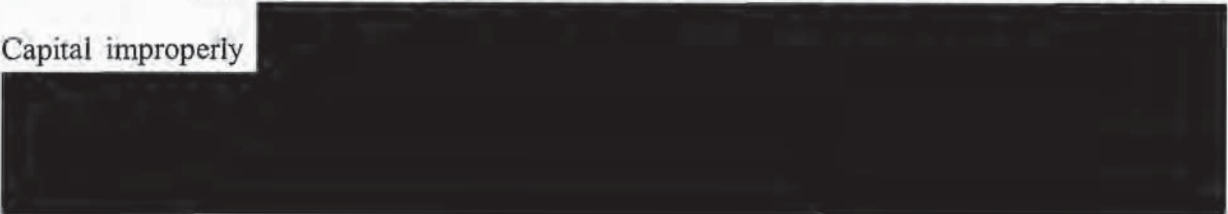
2. UBS Is Harmed By Highland Capital's Response To The Fund Counterparties' Liquidity Crisis

80. In the wake of the First Margin Call, the Fund Counterparties remained starved for liquidity. Still desperate to avoid defaults to creditors and the consequences described above, Highland Capital resorted to



81. Highland Capital and the individuals that directed the Fund Counterparties knew that they had caused the Fund Counterparties to become incapable of satisfying their obligations to all of their respective creditors when they came due, and that they were insolvent or, at the very least, within the zone of insolvency.

82. For example, on or about September 26, 2008, Dondero and Highland Capital improperly



83.

84.

85.

[REDACTED]

86.

[REDACTED] Highland Capital executed this plan at UBS's expense to protect their substantial personal stake in Highland Financial and prevent negative publicity associated with defaulting [REDACTED]. Implementing this plan, however, caused SOHC (and its alter ego, Highland Financial) to improperly and in bad faith breach duties and obligations to UBS.

87.

[REDACTED] SOHC's expected obligations to UBS were well in excess of \$250 million, which were due and owing to UBS no later than March 14, 2009. Thus, by [REDACTED], Highland Capital and the Fund Counterparties made a fraudulent conveyance and interfered in bad faith with the Fund Counterparties' ability to meet their contractual obligations to UBS.

88. Given the state of the financial markets at the time, Highland Capital, Highland Financial and SOHC had no expectation that SOHC would be able to satisfy its

obligations to UBS when they came due.



89.



3. The Second Margin Call

90. On or about October 21, 2008, UBS notified Highland Capital that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund Counterparties each owed another \$10 million (the “Second Margin Call”).

91. In response to the Second Margin Call, Highland Capital offered UBS numerous assets as collateral. UBS rejected those offers for various business-related reasons. As UBS would later learn, however, at the time Highland Capital was offering the assets to UBS, the Fund Counterparties did not own them.

92. On or about October 24, 2008, the Fund Counterparties satisfied the Second Margin Call by together posting assets with a notional value of \$49.97 million (but a market value of approximately \$20 million), with the understanding that UBS would authorize State Street to return the securities if and when the Fund Counterparties were able to replace

those securities with \$20 million in cash. As UBS would later learn,

93. Moreover, at the same time that Highland Capital was telling UBS that the Fund Counterparties did not have sufficient cash assets to meet the Second Margin call,

4. The Third Margin Call

94. On or about November 7, 2008, UBS notified Highland Capital and the Fund Counterparties that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund Counterparties had an obligation to post another \$10 million as collateral (the “Third Margin Call”).

95. On or about November 11, 2008, Highland Capital and the Fund Counterparties offered to post various securities to satisfy the Third Margin Call. In response to the Third Margin Call, Phil Braner of Highland Capital emailed UBS a list of proposed collateral including eight securities with a purported market value of approximately \$20 million (i.e., twice the amount of cash due to satisfy the Third Margin Call).

96. Pursuant to the Warehouse Agreements, UBS was authorized to reject proposed collateral. UBS determined that the proposed additional collateral offered by Highland Capital and the Fund Counterparties was unacceptable. On or after November 13, 2008, UBS formally rejected the offered securities, and requested that the Fund Counterparties provide cash

or cash equivalent collateral to satisfy their obligations under § 12(C) of the Synthetic Warehouse Agreement.

97. UBS would later learn that [REDACTED]

98. When UBS confronted Highland Capital about this issue Mr. Braner of Highland Capital explained that [REDACTED]

F. Termination Of The Agreements And Demand For Payment Of Losses

99. As of December 3, 2008, the Fund Counterparties still had not met the Third Margin Call in accordance with § 12(C) of the Synthetic Warehouse Agreement. This failure resulted in UBS's declaration of a termination date ("Termination Date") under the Agreements.

100. On December 3, 2008, UBS delivered a letter (the "Termination Date Letter") to Highland Capital and the Fund Counterparties notifying them of such failure and the

occurrence of a Termination Date under each Agreement. (A true and correct copy of the Termination Date Letter is annexed hereto as Exhibit G.)

101. Sections 5 and 7 of the Cash Warehouse Agreement provided that if the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to March 14, 2009, UBSS could, in its sole discretion, retain any of the securities in the Warehouse Facility or sell such securities to one of UBSS's affiliates or an unaffiliated party.

102. Pursuant to the terms of the Agreements, if the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to March 14, 2009, each of the Fund Counterparties was obligated to pay to UBS its pro rata share of any market value losses on the Warehouse Assets, which UBS determined it had experienced and so notified Highland Capital and the Fund Counterparties.

103. On December 19, 2008, UBSS delivered a letter (the "Cash Warehouse Demand Letter") to Highland Capital and the Fund Counterparties demanding payment for its losses. (A true and correct copy of the Cash Warehouse Demand Letter is annexed hereto as Exhibit H.) UBSS demanded that Highland Capital and the Fund Counterparties wire that required amount to UBSS no later than 5:00 pm on December 24, 2008 (i.e., the third business day after the date of the Cash Warehouse Demand Letter) (the "Final Payment Date"). Highland Capital and the Fund Counterparties failed to make the required payment to UBSS.

104. The Synthetic Warehouse Agreement provided that in the event the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to March 14, 2009, the Fund Counterparties would be collectively responsible for 100% of the aggregate amount of losses on the CDS Portfolio and each of the Fund Counterparties would pay, after notice of such amount due from UBS, its pro rata share of such amount to UBS within three business days.

105. On December 19, 2008, UBS AG delivered a letter (the “Synthetic Warehouse Demand Letter”) to Highland Capital and the Fund Counterparties demanding payment for its losses. (A true and correct copy of the Synthetic Warehouse Demand Letter is annexed hereto as Exhibit I.) UBS AG demanded that the Highland Capital and the Fund Counterparties wire the required amount to UBS AG no later than 5:00 PM on the Final Payment Date (i.e., December 24, 2008 — the third business day after the date of the Synthetic Warehouse Demand Letter). Highland Capital and the Fund Counterparties failed to make the required payment to UBS AG.

G. Notice Of Failure to Pay, Auction And Final Accounting Letter

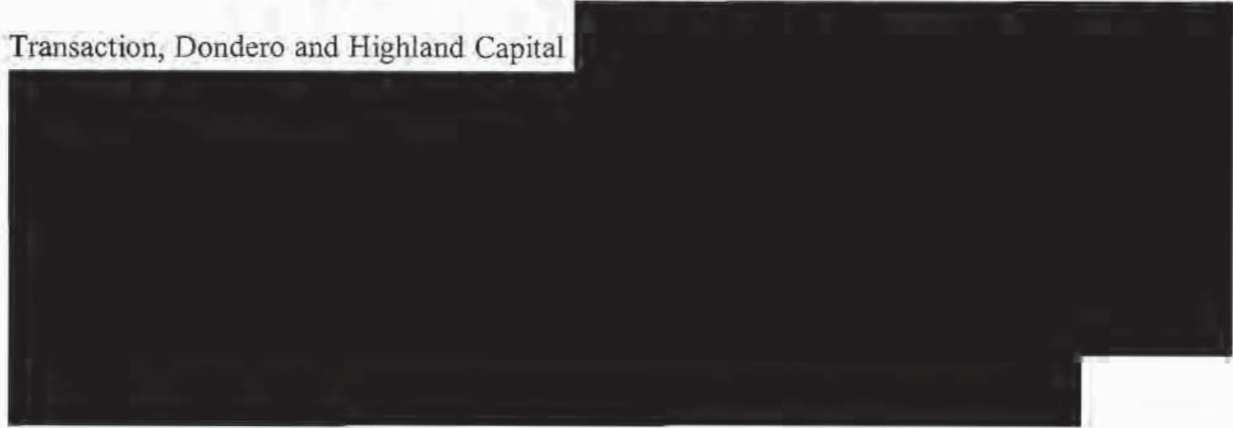
106. On January 5, 2009, UBS notified Highland Capital and the Fund Counterparties of the failure to make the requisite payments when due pursuant to the Agreements and the applicable demand letters. On or about January 16, 2009, in connection with unwinding the Warehouse Facility, UBS conducted the auction contemplated by the Warehouse Agreements.

107. On or about March 19, 2009, UBS delivered a letter to Highland Capital and the Fund Counterparties concerning a final accounting concerning the auction and the losses in the Warehouse Facility. UBS determined that Highland Capital and the Fund Counterparties owed it \$686,853,290.26.

H. Highland Capital

108.

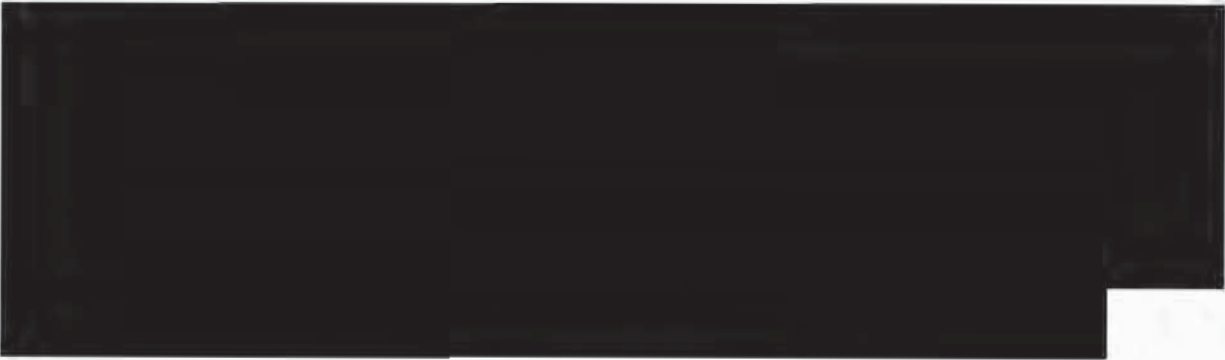
109. In December 2008, immediately after UBS terminated the Restructured Transaction, Dondero and Highland Capital



110. On or about February 24, 2009, UBS commenced this action against Highland Capital and the Fund Counterparties. At the time, SOHC and Highland Financial, as its alter ego, owed UBS approximately \$345 million.

111. Undeterred, on or about March 17, 2009, Dondero and Highland Capital





FIRST CAUSE OF ACTION
(Fraud Against The Fund Counterparties)

115. UBS repeats and realleges the allegations set forth in paragraphs 1 through 114 of this Second Amended Complaint as if fully set forth herein.

116. In connection with restructuring the Original Engagement, and negotiating the terms of the Agreements and Restructured Transaction, Highland Capital and the Fund Counterparties had a duty to communicate accurate and complete information to UBS.

117. As alleged above, in connection with negotiating the Restructured Transaction, Highland Capital and the Fund Counterparties intentionally misrepresented material facts and made Omissions (as defined earlier herein).

118. As set forth in more detail above, prior to the restructuring being completed, and the Agreements being executed, Highland Capital and the Fund Counterparties misrepresented information and made Omissions to UBS concerning the creditworthiness of the Fund Counterparties as well as information about their finances and assets, including, but not limited to, information regarding the following:

- (a) 
- (b) 
- (c) 

119. Highland Capital and the Fund Counterparties acted knowingly and purposefully in making the materially false representations and Omissions to UBS in connection with negotiating the Restructured Transaction to induce UBS to enter the Agreements. Highland Capital and the Fund Counterparties knew that their representations and Omissions were materially false and misleading. Knowingly using material misrepresentations and Omissions, Highland Capital and the Fund Counterparties intended to induce, and fraudulently induced UBS into entering the Agreements.


120. Highland Capital and the Fund Counterparties also knew that their false representations and Omissions were material to and caused UBS's decision to enter the Agreements. In particular, the misrepresentations and Omissions were both quantitatively and qualitatively material to UBS inasmuch as UBS would have acted differently had it known the truth about the Fund Counterparties' finances and assets when UBS made the decision to go forward with the restructuring and releasing, among other things, valuable claims against Highland Capital.

121. UBS was not aware and could not have been aware of the falsity and misleading nature of Highland Capital's and the Fund Counterparties' misrepresentations and Omissions. The facts and information underlying the false, inaccurate and incomplete financial reports that Highland Capital provided to UBS in connection with negotiating the Restructured Transaction were peculiarly within Highland Capital's and the Fund Counterparties' knowledge.

122. Highland Capital and the Fund Counterparties had superior knowledge compared to UBS about Highland Capital's and the Fund Counterparties' finances and assets. Indeed, such facts and information were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Moreover, it was necessary for Highland Capital and the Fund Counterparties to complete or clarify the information that it provided to UBS concerning

the Fund Counterparties' finances and assets. Consequently, Highland Capital's and the Fund Counterparties' concealment of the Fund Counterparties' finances and assets was fraudulent.

123. UBS reasonably and justifiably relied to its detriment on Highland Capital's and the Fund Counterparties' misrepresentations and Omissions regarding the Fund Counterparties' financial condition and assets. In particular, UBS reasonably and justifiably relied on misrepresentations and Omissions of facts and information solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to question the veracity and completeness of the financial information that Highland Capital provided to UBS about the Fund Counterparties' finances and assets. UBS also had no reason to believe that the financial information that Highland Capital provided to it to induce UBS to enter the Restructured Transaction would be false, incomplete or otherwise misleading. When UBS evaluated the Fund Counterparties' financial statements in early 2008,



124. But for Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions, UBS would not have entered the Agreements, or released its claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement.

125. In reasonable and justifiable reliance on the foregoing material misrepresentations and Omissions, UBS also surrendered and released valuable claims against Highland Capital and the Fund Counterparties at a time when UBS could have been made whole for the losses that it had suffered to that point as a result of the Original Engagement. Nor would UBS have suffered the additional losses in the Warehouse Facility.

126. UBS reasonably relied to its detriment on Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions. As a direct and proximate result of Highland Capital's and the Fund Counterparties' misrepresentations and Omissions, UBS continued to maintain the Warehouse Facility through, at least, December 3, 2008, suffering in excess of \$686 million in losses that the Fund Counterparties cannot pay to UBS.

127. Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions were the direct and proximate cause of UBS's losses complained of herein. As a direct result of, and in reliance upon, Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions, UBS was induced to, among other things, (a) enter the Agreements; (b) release its pre-existing claims against Highland Capital and the Fund Counterparties related to the Original Engagement; and (c) assume the credit-risk of the Fund Counterparties; and as a direct result, caused UBS to incur substantial losses and damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION
(Fraud Against The Fund Counterparties)
(Pled Solely To Preserve For Appeal)

128. UBS repeats and realleges the allegations set forth in paragraphs 1 through 127 of this Second Amended Complaint as if fully set forth herein.

129. In connection with restructuring the Original Engagement, and negotiating the terms of the Agreements and Restructured Transaction, Highland Capital and the Fund Counterparties had a duty to communicate accurate and complete information to UBS.

130. As alleged above, in connection with negotiating the Restructured Transaction, Highland Capital and the Fund Counterparties intentionally misrepresented material facts and made Omissions (as defined earlier herein).

131. As set forth in more detail above, prior to the restructuring being completed, and the Agreements being executed, Highland Capital and the Fund Counterparties misrepresented information and made Omissions to UBS concerning the creditworthiness of the Fund Counterparties and information about their finances, assets and business practices, including, but not limited to, information regarding the following:

- (a) [REDACTED]
- (b) [REDACTED]
- (c) [REDACTED]
- (d) [REDACTED]
- (e) [REDACTED]
- (f) [REDACTED]

(g)



132. Highland Capital and the Fund Counterparties acted knowingly and purposefully in making the materially false representations and Omissions to UBS in connection with negotiating the Restructured Transaction to induce UBS to enter the Agreements. Highland Capital and the Fund Counterparties knew that their representations and Omissions were materially false and misleading. Knowingly using material misrepresentations and Omissions, Highland Capital and the Fund Counterparties intended to induce, and fraudulently induced UBS into entering the Agreements.

133. These Omissions rendered the Fund Counterparties' representations, statements and financial statements materially misleading. Because Highland Capital and the Fund Counterparties concealed this information from UBS, UBS could not properly evaluate SOHC's ability to satisfy its obligations to UBS. For instance, UBS received financial reports from Highland Capital for the Fund Counterparties that suggested that the Fund Counterparties held hundreds of millions of dollars worth of assets that could be used to satisfy their obligations to UBS. However, a substantial portion of the assets that UBS reasonably believed would be available, were, in fact, not going to be available to pay UBS because they were going to be encumbered as a result of other transactions. In other words, because Highland Capital concealed its intentions, the financial reports that it provided to UBS were misleading as they provided UBS with false and illusory comfort regarding the Fund Counterparties' capacity to fulfill their contractual obligations to UBS. As the Fund Counterparties' investment manager, Highland Capital would have led the negotiations related to the other financing arrangements.

134. Similarly, during negotiations concerning the Initial Restructuring Collateral, Highland Capital and SOHC made an additional Omission by not disclosing to UBS

the fact that SOHC had a serious liquidity problem. SOHC had to borrow cash from Highland Capital to satisfy the cash portion of its Initial Restructuring Collateral obligation. On or about December 18, 2007, while the parties were negotiating the restructuring, Highland Capital loaned \$30 million to SOHC, which Highland Capital and SOHC's alter ego, Highland Financial, earmarked for SOHC to use as collateral in connection with negotiating extensions of warehouse facilities, including the one with UBS. As Highland Financial's and SOHC's investment manager, Highland Capital knew about SOHC's liquidity problems since they were discussed openly at Highland Financial board meetings attended by Highland Capital. The failure to fully disclose SOHC's liquidity problem, and its inability to meet the Initial Restructuring Collateral obligation using its own cash assets was an Omission, because it was indicative of the strength of SOHC's finances and assets, and SOHC's ability to satisfy obligations to UBS.

135. Highland Capital and Fund Counterparties also concealed from UBS that Highland Capital had to commingle assets among its various affiliates and disregard corporate formalities to satisfy the Fund Counterparties' liquidity needs. Facts and information concerning these business practices, including Highland Capital's commingling of assets and disregard of corporate formalities was information solely and peculiarly within the knowledge of Highland Capital and its affiliates. As the investment manager to Highland Financial, SOHC and CDO Fund (as well as the Affiliated Transferee Defendants), Highland Capital knowingly arranged and caused the asset transfers between and among the various affiliates in disregard of corporate formalities.

136. Highland Capital and the Fund Counterparties also knew that their false representations and Omissions were material to and caused UBS's decision to enter the Agreements. In particular, the misrepresentations and Omissions were both quantitatively and

qualitatively material to UBS inasmuch as UBS would have acted differently had it known the truth about the Fund Counterparties' finances, assets and business practices when UBS made the decision to go forward with the restructuring and releasing, among other things, valuable claims against Highland Capital.

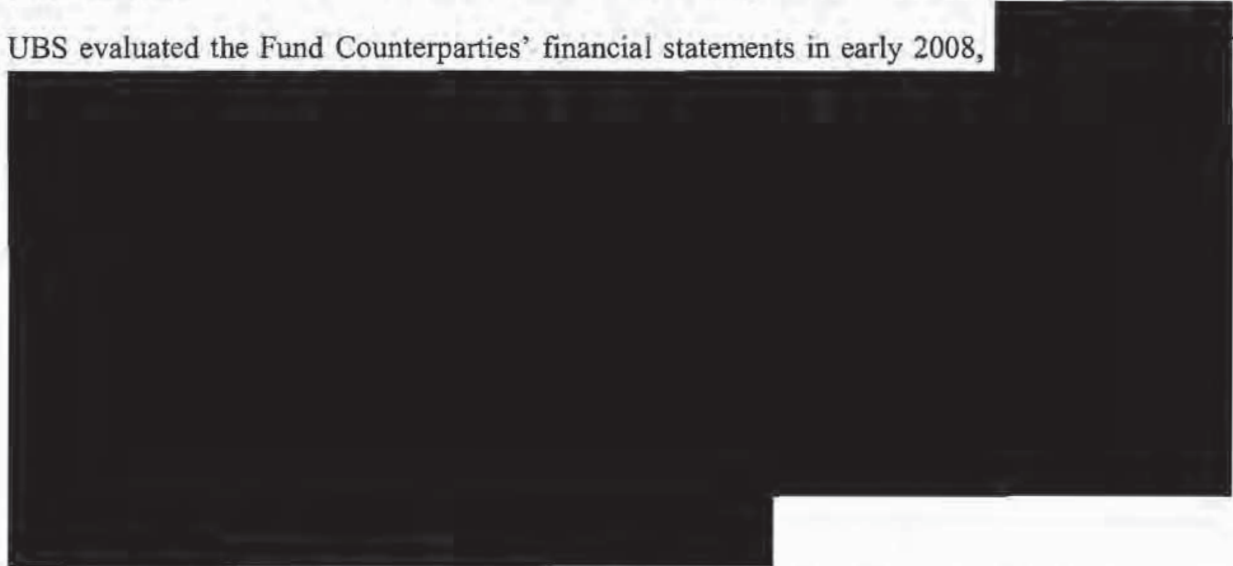
137. In addition, if UBS had known that Highland Capital and the Fund Counterparties ignored corporate formalities or that Highland Capital freely transferred assets among its controlled entities, UBS would not have entered the Restructured Transaction. These misrepresentations and Omissions proximately caused harm to UBS.

138. UBS was not aware and could not have been aware of the falsity and misleading nature of Highland Capital's and the Fund Counterparties' misrepresentations and Omissions. The facts and information underlying the false, inaccurate and incomplete financial reports that Highland Capital and the Fund Counterparties provided to UBS in connection with negotiating the Restructured Transaction were peculiarly within Highland Capital's and the Fund Counterparties' knowledge.

139. Highland Capital and the Fund Counterparties had superior knowledge compared to UBS about Highland Capital's and the Fund Counterparties' finances, assets and business practices. Indeed, such facts and information were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Moreover, it was necessary for Highland Capital and the Highland Entities to complete or clarify the information that it provided to UBS concerning the Fund Counterparties' finances, assets and business practices. Consequently, Highland Capital's and the Fund Counterparties' concealment about the Fund Counterparties' finances, assets and business practices was fraudulent.

140. UBS reasonably and justifiably relied to its detriment on Highland Capital's and the Fund Counterparties' misrepresentations and Omissions regarding the Fund

Counterparties' financial condition, assets and business practices. In particular, UBS reasonably and justifiably relied on misrepresentations and Omissions of facts and information solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to question the veracity and completeness of the financial information that Highland Capital provided to UBS about the Fund Counterparties' finances, assets and business practices. UBS also had no reason to believe that the financial information that Highland Capital and the Fund Counterparties provided to it to induce UBS to enter the Restructured Transaction would be false, incomplete or otherwise misleading. When UBS evaluated the Fund Counterparties' financial statements in early 2008,



141. But for Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions, UBS would not have entered the Agreements, or released its claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement.

142. In reasonable and justifiable reliance on the foregoing material misrepresentations and Omissions, UBS also surrendered and released valuable claims against Highland Capital and the Fund Counterparties at a time when UBS could have been made whole

for the losses that it had suffered to that point as a result of the Original Engagement. Nor would UBS have suffered the additional losses in the Warehouse Facility.

143. UBS reasonably relied to its detriment on Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions. As a direct and proximate result of Highland Capital's and the Fund Counterparties' misrepresentations and Omissions, UBS continued to maintain the Warehouse Facility through, at least, December 3, 2008, suffering in excess of \$686 million in losses that the Fund Counterparties cannot pay to UBS.

144. Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions were the direct and proximate cause of UBS's losses complained of herein. As a direct result of, and in reliance upon, Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions, UBS was induced to, among other things, (a) enter the Agreements; (b) release its pre-existing claims against Highland Capital and the Fund Counterparties related to the Original Engagement; and (c) assume the credit-risk of the Fund Counterparties; and as a direct result, caused UBS to incur substantial losses and damages in an amount to be determined at trial.

THIRD CAUSE OF ACTION
(Breach of Contract Under the Cash Warehouse Agreement Against The Fund Counterparties)

145. Plaintiff UBSS repeats and realleges the allegations set forth in paragraphs I through 144 of this Second Amended Complaint as if fully set forth herein.

146. The Cash Warehouse Agreement is a valid and binding contract.

147. UBSS has performed all of its obligations under the Cash Warehouse Agreement.

148. Pursuant to the Cash Warehouse Agreement, each of the Fund Counterparties was required to transfer their respective pro rata shares of additional collateral to satisfy the Third Margin Call within two business days of November 7, 2008. The Fund Counterparties failed to make the required transfer. The Fund Counterparties' failure to make such transfer is a breach under the Cash Warehouse Agreement, and resulted in a Termination Date under the Cash Warehouse Agreement.

149. In accordance with the terms of the Cash Warehouse Agreement, UBSS demanded that each of the Fund Counterparties pay to UBS their respective pro rata shares of the amount of losses on the Cash Portfolio and estimated expenses by 5 P.M. on the Final Payment Date (*i.e.*, December 24, 2008 – the third business day after the date of the Cash Warehouse Demand Letter). The Fund Counterparties failed to pay this amount to UBSS. The failure to pay these amounts to UBSS when due under the Cash Warehouse Agreement constituted a further breach under the Cash Warehouse Agreement.

150. By reason of the foregoing, UBSS has suffered and will continue to suffer damages in an amount to be determined at trial.

FOURTH CAUSE OF ACTION
(Breach of Contract Under the Synthetic Warehouse Agreement Against The Fund Counterparties)

151. Plaintiff UBS AG, repeats and realleges the allegations set forth in paragraphs 1 through 150 of this Second Amended Complaint as if fully set forth herein.

152. The Synthetic Warehouse Agreement is a valid and binding contract.

153. UBS AG has performed all of its obligations under the Synthetic Warehouse Agreement.

154. Pursuant to the Synthetic Warehouse Agreement, each of the Fund Counterparties were required to transfer their respective pro rata shares of additional collateral to satisfy the Third Margin Call within two business days of November 7, 2008. The Fund Counterparties failed to make the requisite transfer. The failure to make such transfer resulted in a breach and a Termination Date under the Synthetic Warehouse Agreement.

155. UBS AG demanded that each of the Fund Counterparties pay to UBS AG their pro rata share of losses on the CDS Portfolio and estimated expenses by 5 P.M. on the Final Payment Date (i.e., December 24, 2008 – the third business day after the date of the Synthetic Warehouse Demand Letter). The Fund Counterparties failed to pay this amount to UBS. The failure to pay these amounts when due under the Agreements was a further breach under the Synthetic Warehouse Agreement.

156. By reason of the foregoing, UBS AG has suffered and will continue to suffer damages in an amount to be determined at trial.

157. Paragraphs 157 to 166 have been intentionally left blank.

FIFTH CAUSE OF ACTION
(Fraudulent Conveyances Against All Defendants)

167. UBS repeats and realleges the allegations set forth in paragraphs 1 through 166 of this Second Amended Complaint as if fully set forth herein.

168. Between March 14, 2008 and December 3, 2008, as losses in the Warehouse Facility grew, Highland Capital exercised its control over the Fund Counterparties and caused the Fund Counterparties to transfer valuable cash and assets out of the Fund Counterparties, thereby impairing their ability to bear losses in the Warehouse Facility, and otherwise satisfy their obligations to creditors, including UBS. [REDACTED]

[REDACTED]

169.

[REDACTED]

170.

[REDACTED]

171.



172.

173.



174.



175.



[REDACTED]

176.

[REDACTED]

177.

[REDACTED]

178.

[REDACTED]



179. As a result of the foregoing fraudulent conveyances, the Fund Counterparties were unable to satisfy their obligations to UBS. As a result of the foregoing fraudulent conveyances, UBS has been harmed in an amount to be determined at trial.

SIXTH CAUSE OF ACTION
(Tortious Interference With Contractual Relations
Against The Affiliated Transferee Defendants)
(Pled Solely To Preserve For Appeal)

180. UBS repeats and realleges the allegations set forth in paragraphs 1 through 179 of this Second Amended Complaint as if fully set forth herein.

181. The Agreements are valid and binding contracts.

182. The parties agreed that UBS would not bear the risk of any losses in connection with the Restructured Transaction. As a direct result of the Fund Counterparties' breach of the Warehouse Agreements, UBS suffered no less than \$686,853,290.26 in damages. Under the terms of the Warehouse Agreements, the Fund Counterparties' obligation to pay UBS for losses in the Warehouse Facility expressly survived the termination of the Agreements.

183. Highland Capital knew of the Agreements, and were familiar with their terms, including the Fund Counterparties' obligations to UBS thereunder. The Affiliated

Transferee Defendants, also knew of the Agreements, and their terms, including the Fund Counterparties' obligations to UBS thereunder.

184. Highland Capital and the Affiliated Transferee Defendants intentionally and improperly caused and ensured a breach of the Warehouse Agreements by the Fund Counterparties, thereby tortiously interfering with UBS's rights under the Agreements.

185. Specifically, in 2008 and 2009 Highland Capital wrongfully caused the improper and fraudulent asset transfers, payments, distributions and dividends described above, and thereby tortiously interfered with UBS's contractual relationship with the Fund Counterparties by knowingly impairing UBS's contractual right under the Warehouse Agreements to be reimbursed by the Fund Counterparties for the losses on the Warehouse Assets. For example, Highland Capital wrongfully caused the March 2009 Fraudulent Conveyance for which there was no legitimate purpose. The Affiliated Transferee Defendants

[REDACTED]

186. Highland Capital and the Affiliated Transferee Defendants

[REDACTED]

187. Highland Capital and the Affiliated Transferee Defendants engaged in the foregoing unlawful and improper conduct, and tortiously interfered with UBS's contractual rights under the Warehouse Agreements, for their own improper personal gain by knowingly violating UBS's rights and making it impossible for the Fund Counterparties to perform under the Warehouse Agreements. In particular, the foregoing conduct constitutes independent torts

and predatory acts directed at UBS for Highland Capital's and the Affiliated Transferee Defendants' own personal gain.

188. As a direct and proximate result of Highland Capital's and the Affiliated Transferee Defendants' tortious interference with UBS's contractual rights under the Agreements, UBS has suffered damages in an amount to be determined at trial. Had Highland Capital and the Affiliated Transferee Defendants not tortiously interfered with UBS's contractual rights, the Fund Counterparties would have been able to make payments to UBS of the amount they owed to UBS under the Warehouse Agreements.

SEVENTH CAUSE OF ACTION
**(Declaratory Judgment For General
Partner Liability Against Strand)**

189. UBS repeats and realleges the allegations set forth in paragraphs 1 through 188 of this Second Amended Complaint as if fully set forth herein.

190. A limited partnership's general partner is personally liable for the partnership obligations of the limited partnership.


191. Highland Capital is a Delaware limited partnership. Defendant Strand is Highland Capital's general partner. As such, Strand is personally liable for the liability, debts and obligations of Highland Capital, including but not limited to Highland Capital's liabilities to UBS arising out of the Consolidated Action.


192. A justiciable controversy exists as to whether Strand is liable to UBS for the injuries caused by Highland Capital complained of in the Consolidated Action as a result of Strand being Highland Capital's general partner.

EIGHTH CAUSE OF ACTION
(Declaratory Judgment For Alter Ego Liability
Against Highland Financial)

193. UBS repeats and realleges the allegations set forth in paragraphs 1 through 192 of this Second Amended Complaint as if fully set forth herein.


194. As alleged above, SOHC breached the Warehouse Agreements and otherwise harmed UBS by engaging in fraudulent misconduct. Highland Financial is SOHC's alter ego and should be held responsible and liable for SOHC's breach of the Warehouse Agreements and fraudulent misconduct.

195. SOHC is a mere instrumentality of Highland Financial. SOHC had no independence and could not exercise any business discretion whatsoever. 

 SOHC did not have its own offices, officers or employees. Rather, it shared common officers, directors and employees, as well as common office space, with Highland Financial.

196. As alleged in detail above, Highland Financial completely dominated the day-to-day operations of SOHC as well as SOHC's sister-affiliates. In particular, Highland Financial operated Highland Financial and its subsidiaries, including SOHC, as a single entity,





197. A justiciable controversy exists as to whether Highland Financial is liable to UBS as SOHC's alter ego for the losses and harm that UBS suffered that were caused by SOHC's breach of the Warehouse Agreements, and the fraudulent and tortious conduct complained of herein.

RELIEF DEMANDED

WHEREFORE, plaintiffs UBSS and UBS AG demand judgment:

(a) On the first cause of action, as against the Fund Counterparties, declaring that UBS was induced to enter the Agreements as a result of fraud committed by the Fund Counterparties, and awarding damages to UBS for all losses and liabilities incurred by UBS, and that UBS incurs, with respect to the Agreements and the Warehouse Facility, including, without limitation, interest, reasonable attorneys' and accountants' fees and expenses and any other losses, fees and expenses that UBS incurred or incurs, in an amount to be determined at trial but in any event, no less than \$686,853,290.26;

(b) On the second cause of action, which is pled solely to preserve UBS's appellate rights, as against the Fund Counterparties, declaring that UBS was induced to enter the Agreements as a result of fraud committed by the Fund Counterparties, and awarding damages to UBS for all losses and liabilities incurred by UBS, and that UBS incurs, with respect to the Agreements and the Warehouse Facility, including, without limitation, interest, reasonable attorneys' and accountants' fees and expenses and any other losses, fees and expenses that UBS incurred or incurs, in an amount to be determined at trial but in any event, no less than \$686,853,290.26;

(c) On the third cause of action, as against the Fund Counterparties, declaring that the Fund Counterparties breached the Cash Warehouse Agreement, and awarding UBS an amount to be determined at trial;

(d) On the fourth cause of action, as against the Fund Counterparties, declaring that the Fund Counterparties breached the Synthetic Warehouse Agreement, and awarding UBS an amount to be determined at trial;

(e) On the fifth cause of action, as against all defendants, (i) declaring that the dispositions of the Fund Counterparties' and Highland Financial's assets, as directed by Highland Capital, constituted fraudulent conveyances; (ii) appointing a receiver over defendants; (iii) directing that a full accounting be had of defendants' affairs and finances; (iv) imposing a constructive trust over defendants' assets until such an accounting is completed; and/or (v) awarding UBS damages in an amount to be determined at trial, but no less than the value of the assets fraudulently and improperly transferred, or, alternatively, directing that defendants and their partners, members or shareholders return to the Fund Counterparties any assets or consideration received from Highland Financial or the Fund Counterparties, directly or indirectly, as distributions, dividends, consideration, compensation, fees, interest, principal or otherwise, between March 14, 2008 and the present.

(f) On the sixth cause of action, as against the Affiliated Transferee Defendants, which is pled solely to preserve UBS's appellate rights, declaring that each of those defendants is liable for tortiously interfering with UBS's contractual rights under the Warehouse Agreements, and awarding UBS an amount to be determined at trial;

(g) On the seventh cause of action, as against defendant Strand, declaring that Strand is responsible for Highland Capital's liability and obligations arising out of the Consolidated Action;

(h) On the eighth cause of action, as against defendant Highland Financial, declaring that Highland Financial is SOHC's alter ego, and that as such, Highland Financial is responsible for SOHC's liability and obligations to UBS arising out of this action;

(i) Awarding UBS punitive damages in an amount to be determined at trial;

(j) Granting UBS its costs and disbursements, including reasonable attorneys' fees and expenses of this action;

(k) Granting UBS pre-judgment interest; and

(l) Granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
May 11, 2011

CADWALADER, WICKERSHAM & TAFT LLP

By: /s/ Gregory A. Markel
Gregory A. Markel
Howard R. Hawkins, Jr.
Jason Jurgens
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*Attorneys for Plaintiffs UBS Securities LLC and
UBS AG, London Branch*

Exhibit B

Phase I Decision and Order

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 60

-----X
UBS SECURITIES LLC and UBS AG, LONDON BRANCH,

INDEX NO. 650097/2009

Plaintiff,

- v -

HIGHLAND CAPITAL MANAGEMENT, L.P., HIGHLAND
SPECIAL OPPORTUNITIES HOLDING COMPANY,
HIGHLAND CDO OPPORTUNITY MASTER FUND, L.P.,
HIGHLAND FINANCIAL PARTNERS, L.P., HIGHLAND
CREDIT STRATEGIES MASTER FUND, L.P., HIGHLAND
CRUSADER OFFSHORE PARTNERS, L.P., HIGHLAND
CREDIT OPPORTUNITIES CDO, L.P., STRAND ADVISORS,
INC.,

**DECISION AND ORDER AFTER
TRIAL**

Defendant.
-----X

This action arises out of a failed restructured transaction between plaintiffs UBS Securities LLC and UBS AG, London Branch (collectively, UBS) and defendants Highland CDO Opportunity Master Fund, L.P. (CDO Fund) and Highland Special Opportunities Holding Company (SOHC) (together, the Fund Counterparties), and defendant Highland Capital Management, L.P. (Highland Capital) (together with the Fund Counterparties, Highland), for the securitization of collateralized loan obligations (CLOs) and credit default swaps (CDSs).

The court conducted a bench trial from July 9 through July 27, 2018 on plaintiffs' third and fourth causes of action in the second amended complaint for breach of contract, and on defendant Highland Capital's first and second counterclaims against plaintiff UBS Securities

LLC for breach of contract and unjust enrichment, respectively.¹ Based on the credible evidence at trial, the court now makes the following determination as to the breach of contract causes of action and counterclaims.²

In April and May 2007, the parties agreed to pursue a collateralized debt obligations transaction governed by an Engagement Letter, a Synthetic Warehouse Agreement for CDSs, and a Warehouse Agreement for CLOs (Original Agreements). (DX 4, DX 5, DX 6.)³ It is undisputed that UBS acted as the “financial arranger” for the transaction and was responsible for financing the acquisition of assets, which would then be held in portfolios, which the parties refer to as the Cash Warehouse and the Synthetic Warehouse or collectively as the Knox Warehouse. (Ps.’s Findings, ¶ 4; Ds.’s Findings, ¶ 5.)⁴ Highland Capital acted as the “Servicer” and was responsible for identifying the specific CLOs to be securitized and the Reference Obligations for the CDSs to be securitized. (Ps.’s Findings, ¶¶ 3, 4; Ds.’s Findings, ¶¶ 6, 8.)

In furtherance of the transaction, UBS acquired assets with a notional value of \$818 million. (Ps.’s Findings, ¶ 6; Ds.’s Findings, ¶ 5.) There were 33 CLO tranches in the Cash Warehouse, with a notional value of \$174 million. UBS paid \$170 or \$170.5 million to acquire the CLOs because the bonds were purchased at a slight discount on their par value. (Ds.’s Findings, ¶ 6; Ps.’s Findings, ¶ 6.) The Synthetic Warehouse contained 87 credit default swaps,

¹ By decision on the record on May 1, 2018 (NYSCEF Doc. No. 494), the court bifurcated the trial. The decision held that the breach of contract claims, which were to be heard by the court, would be determined prior to claims, including fraudulent conveyance claims, which were to be heard by a jury.

² At the trial, the parties agreed to the submission of extensive evidence, subject to standing objections. This decision is not based on such evidence, unless the decision expressly states otherwise.

³ Defendants’ and plaintiffs’ trial exhibits will be referred to as DX _ and PX _, respectively. The parties’ demonstrative exhibits will be referred to as DX Demo. _ and PX Demo. _

⁴ The Fund Counterparties’ and Highland Capital Management, L.P.’s Proposed Findings of Fact and Conclusions of Law will be referred to as Ds.’s Findings. Plaintiffs’ Proposed Findings of Fact and Conclusions of Law will be referred to as Ps.’s Findings. Defendants’ Findings are all identified by paragraph number. Plaintiffs’ Findings of Fact are identified by paragraph number, while their Findings of Law are identified only by page number.

with a notional value of \$644 million. (Ds.'s Findings, ¶ 7; Ps.'s Findings, ¶ 6.) UBS served as the protection seller on all of the CDSs. (Ps.'s Findings, ¶ 4; Ds.'s Findings, ¶ 8.) For five of the CDSs, with a notional value of \$45 million, Lehman Brothers Special Financing, Inc. (Lehman) acted as the protection buyer (Lehman Swaps). (Ps.'s Findings, ¶ 8; Ds.'s Findings, ¶ 9; PX 755⁵, at 1.) For 20 of the CDSs, with a notional value of \$124 million, UBS acted as both protection seller and protection buyer (the Internal Swaps). (Ds.'s Findings, ¶ 10; Ps.'s Findings, ¶ 9; PX 755, at 4-5.)

The Original Agreements expired by their terms on August 15, 2007. (PX 1, at 1.) The parties agreed to restructure the transaction, signing a new Engagement Letter, the 2008 Cash Warehouse Agreement (CWA), and the 2008 Synthetic Warehouse Agreement (SWA), as of March 14, 2008. (See PX 1, PX 2, PX 3.) As of March 14, 2008, the Knox assets had lost significant value and the parties agreed that, given the market conditions existing as of the date of the restructured transaction, it was not then feasible to sell the securities and close the transaction. (Ps.'s Findings, ¶ 20; 2008 Engagement Letter [PX 1, at 8].)

As discussed further below, the Synthetic Warehouse Agreement provided for the roll-over of the Existing Credit Default Swaps and the Existing Collateral Portfolio into the warehouses created under the 2008 restructured transaction. (See SWA, Whereas Clause 5.) Section 12 of the Synthetic Warehouse Agreement provided that the Fund Counterparties would transfer additional cash and securities "to secure its obligations to UBS" under the SWA and the CWA. In particular, this Section required the Fund Counterparties to make an Initial Deposit of \$20 million in cash and approximately \$54 million in Eligible Securities on the date of the

⁵ PX 755 is a document that that was jointly prepared by plaintiffs' and defendants' counsel so that specific information regarding the Knox Warehouse assets could be found in one place. (Trial Tr. at 858.)

execution of the SWA. (Id., § 12 [A].) The SWA contained a collateral call provision under which UBS was required to track its CDS and Cash Exposure to losses, as defined under the Agreement, on a semi-monthly basis, and the Fund Counterparties were required to deposit an additional \$10 million in collateral (cash and/or Eligible Securities) for every \$100 million increase in the defined Deposit Threshold Exposure Amount. (Id., §§ 12 [B], [C].)

It is undisputed that, pursuant to Section 12 (C) of the SWA, UBS made a first collateral call for \$10 million on September 17, 2008 (PX 4), and a second collateral call for \$10 million on October 21, 2008 (PX 5), both of which were satisfied by the Fund Counterparties. (Testimony of Keith Grimaldi, Former Head of UBS's CDO Secondary Trading Desk, Trial Transcript (Tr.) at 81, 112, 119.)

On November 7, 2008, UBS issued the third, and final, collateral call to the Fund Counterparties for an additional \$10 million. (PX 6.) It is undisputed that the Fund Counterparties did not meet this collateral call. (Ds.'s Findings, ¶ 17; Ps.'s Findings, ¶¶ 43-47).⁶

On December 3, 2008, UBS sent a notice to Highland stating that, to date, no deposits have been made in response to the November collateral call, and that "a Termination Date has occurred under the Warehouse Agreements and a termination date has occurred under the Engagement Letter." (PX 7; PX 9.) The notice further stated that "UBS is forbearing from exercising its remedies [under the Agreements] for a period of two Business Days from the date hereof in order to permit [the Fund Counterparties] to pay the Additional Deposits by 5 pm New York time on December 5, 2008." (Id.) On December 5, 2008, UBS sent an additional notice to

⁶ It is undisputed that the Fund Counterparties offered to post CLO assets to satisfy the third collateral call and that UBS did not accept that collateral. UBS's Keith Grimaldi testified that UBS rejected the CLOs because "at that time the marketplace was declining and declining rapidly. We thought there would be more declines, so we collectively made a decision that we wanted cash or government securities ... that would be easily liquid and reflect better value." (Trial Tr. at 122.) Defendants stipulated that UBS had the right to insist on cash. (See Statement of Andrew Cruciani [Ds.'s Atty.], Trial Tr. at 1736.)

Highland stating that the Additional Deposit has not been made, and that “[c]onsequently, UBS will proceed to exercise the rights and remedies available to it under the Warehouse Agreements, the Engagement Letter, at law and otherwise.” (PX 8.)

THIRD COLLATERAL CALL

As a threshold matter, the parties dispute whether the third collateral call was proper. Highland argues that UBS should not have included the 20 Internal Swaps in calculating the Deposit Threshold Exposure Amount “because the Intradesk [i.e., Internal] Swaps were not Existing Credit Default Swaps under the SWA . . .” (Ds.’s Findings, ¶ 28.) Highland also claims that the Lehman Swaps were not properly included in the calculation because they had been terminated prior to the third collateral call. (See *id.*, ¶ 27.)

More particularly, Highland claims that the Internal Swaps were not Existing Credit Default Swaps because they were not documented, as allegedly required by Section 3 of the SWA, in the form of an ISDA Master Agreement and ISDA Confirmation. (Ds.’s Findings, ¶¶ 28, 30-31.) UBS does not dispute that the Internal Swaps were not documented by the ISDA Master Agreement and Confirmation, but argues that Section 3 does not require such documentation for the Internal Swaps. (Ps.’s Findings, at 24-25.)⁷

Resolution of this dispute involves an issue of contract interpretation. It is well settled that the determination of whether a contract is ambiguous is one of law to be resolved by the court. (Matter of Wallace v 600 Partners Co., 86 NY2d 543, 548 [1995]; W.W.W. Assocs., Inc. v Giancontieri, 77 NY2d 157, 162 [1990].) Written agreements are to be construed in accordance with the parties’ intent, and “the best evidence of what parties to a written agreement

⁷ It is undisputed that the Internal Swaps were documented by electronic trading tickets but not by ISDA Master Agreements or ISDA trade confirmations. (Ds.’s Findings, ¶ 10; Ps.’s Findings, ¶¶ 16-17; PX 29 [electronic trading tickets].)

intend is what they say in their writing.” (Schron v Troutman Sanders LLP, 20 NY3d 430, 436 [2013] [internal quotation marks, brackets, and citation omitted].) The court should determine from contractual language, without regard to extrinsic evidence, whether there is any ambiguity. (Chimart Assocs. v Paul, 66 NY2d 570, 573 [1986].) Extrinsic or parol evidence “may not be considered when the intent of the parties can be gleaned from the face of the instrument.” (Id. at 572-573.) “Extrinsic evidence of the parties’ intent may be considered only if the agreement is ambiguous. . . .” (Greenfield v Philles Records, Inc., 98 NY2d 562, 569 [2002].) “Ambiguity in a contract arises when the contract, read as a whole, fails to disclose its purpose and the parties’ intent, or where its terms are subject to more than one reasonable interpretation.” (Universal Am. Corp. v National Union Fire Ins. Co. of Pittsburgh, Pa., 25 NY3d 675, 680 [2015] [internal quotation marks and citation omitted].)

It is also well settled that a court should “construe the [contract] so as to give full meaning and effect to the material provisions. A reading of the contract should not render any portion meaningless. Further, a contract should be read as a whole, and every part will be interpreted with reference to the whole; and if possible it will be so interpreted as to give effect to its general purpose.” (Beal Sav. Bank v Sommer, 8 NY3d 318, 324-25 [2007] [internal quotation marks and citations omitted]; National Conversion Corp. v Cedar Bldg. Corp., 23 NY2d 621, 625 [1969] [holding that “[a]ll parts of an agreement are to be reconciled, if possible, in order to avoid inconsistency”].)

Applying these precepts, the court holds that the SWA is not ambiguous with respect to the requirements for documentation of CDSs, that Section 3 of the SWA only applies to CDSs in which a third party is the protection buyer, and that this Section does not require ISDA documentation for the Internal Swaps.

The SWA defines “Existing Credit Default Swap[s]” as the CDSs “that were the subject of the Original Synthetic Warehouse Agreement.” (SWA, Whereas Clause 5.) Section 3 of the SWA provides, in pertinent part:

“Form of Documentation. Each Existing Credit Default Swap between UBS, acting as Seller, and a counterparty, acting as Buyer, has been documented in the form of (i) the ISDA Master Agreement and Schedule currently in effect between UBS and the related counterparty, which documents are confidential between UBS and such counterparty and (ii) an ISDA published confirmation. . . . Each Additional Credit Default Swap between UBS, acting as Seller, and a counterparty, acting as Buyer, will be documented in the form of (i) the ISDA Master Agreement and Schedule currently in effect between UBS and the related counterparty, which documents are confidential between UBS and such counterparty and (ii) the Confirmation attached [to the SWA]”

As the Agreement that governs the securitization of Existing and Additional Credit Default Swaps, the SWA contains numerous detailed provisions regarding the accumulation and disposition of these financial instruments. Section 3, which pertains to documentation of the swaps, is the only provision in the SWA that is limited to CDSs in which UBS is the Seller and a counterparty is the Buyer. All of the other provisions of the SWA refer to CDSs without such limitation.

Moreover, like SWA Section 3, the Original SWA provided: “Each Credit Default Swap between UBS, acting as Seller, and a counterparty, acting as Buyer, will be documented in the form of (i) the ISDA Master Agreement and Schedule currently in effect between UBS and the counterparty, which documents are confidential between UBS and each counterparty and (ii) the Confirmation attached hereto. . . .” (Original SWA, § 3 [NYSCEF Doc. No. 626].) It is undisputed, however, that the Internal Swaps were included in the Original SWA portfolio but were not documented by the ISDA Master Agreement or Confirmation. It is also undisputed that the Internal Swaps were nevertheless again included in the Initial Net Exposure Amount in the SWA for the restructured transaction. (Testimony of Peter Vinella [Highland’s expert in

structured financial products], Trial Tr. at 1097, 1124-1125 [acknowledging that the Internal Swaps were included in the Initial Net Exposure Amount].)

Initial Net Exposure Amount is defined in the SWA⁸ as “111,767,486.88, being the amount by which the Aggregate Net Exposure Amount as of the date hereof [i.e., the March 14, 2008 “as of” date of the SWA] exceeds the Initial Deposit.” As defined in SWA Section 12 (A), the Initial Deposit is the deposit of approximately \$74,000,000 in cash and Eligible Securities made on the date of execution of the SWA. Aggregate Net Exposure Amount is defined as the amount by which CDS Exposure and Cash Exposure, as of the date of the collateral calculation, exceed the balance on deposit in the Deposit Account plus Positive Carry with respect to each Collateral Obligation.⁹ As discussed above, Section 12 (C) of the SWA requires a deposit of \$10 million in additional collateral when the Deposit Threshold Exposure Amount is greater than or equal to \$100 million. The Deposit Threshold Exposure Amount is defined in the SWA as “the amount, if any, by which (i) the Aggregate Net Exposure Amount as of [the date of the collateral calculation] exceeds (ii) the Initial Net Exposure Amount.” The Initial Net Exposure Amount, which includes the Internal Swaps, is thus integral to the calculation of the Deposit Threshold Exposure Amount.

Based on this reading of the SWA as a whole, the court concludes that the Internal Swaps were Existing Credit Default Swaps within the meaning of the SWA. The lack of ISDA documentation was therefore not a bar to their inclusion in the collateral call calculation.

The court rejects Highland’s further contention that the Internal Swaps should not have been included because there was “no economic consequence” to UBS from these swaps. (Ds.’s

⁸ Definitions are found in the Definitions section of the SWA (SWA, Ex. A), unless the term is defined in a particular provision of the SWA, in which case the provision will be cited.

⁹ Positive Carry is defined in the CWA. As explained by Adam Warren, Highland’s damages expert, carry includes interest payments from the CLOs. (Warren Testimony, Trial Tr. at 1299.)

Findings, ¶ 33.) The complex formula set forth in Section 12 for calculating the exposure of UBS on the assets in the warehouse that would trigger a collateral call does not contain any requirement that UBS include in the calculation only assets for which it was at risk of sustaining actual losses.¹⁰

The court further holds that, although the Internal Swaps were properly included in the third collateral call calculation, the Lehman Swaps were not. The parties do not dispute that the Lehman Swaps had been terminated based on the Event of Default that occurred upon Lehman's filing for bankruptcy on September 15, 2008. (DX 87 [UBS Default Notice].) Highland asserts, and UBS does not persuasively counter, that the Lehman Swaps should not have been included in the third collateral call. Indeed, UBS's Grimaldi forthrightly acknowledged that, given the termination, there should not have been "markdowns" on the Lehman Swaps. (Grimaldi Testimony, Trial Tr. at 297-298.)

Highland contends, based on the inclusion of the Lehman Swaps and Internal Swaps in the third collateral call calculation, that UBS "committed a prior material breach by failing to

¹⁰ In view of this holding that the Internal Swaps were properly included in the collateral call calculation pursuant to the unambiguous terms of the SWA, the court has not considered parol evidence on the issue.

The court thus rejects Highland's request for a finding that UBS admitted that the SWA required ISDA documentation of the Internal Swaps. (See Ds.'s Findings, ¶¶ 30-31.) This request is based on testimony of UBS's Keith Grimaldi who, when shown Section 3 during cross-examination and asked if every CDS was required to have ISDA documentation, responded: "According to the language, yes." (Grimaldi Testimony, Trial Tr. at 262-264.) Even if this evidence were properly considered, Highland's reliance on this answer ignores that Mr. Grimaldi further testified that ISDA documentation would not be "filled out" until the assets were transferred in the securitization. (*Id.* at 267-270.)

The court further notes that Highland requests a finding, arguably in support of its claim that the CDSs were not Existing Credit Default Swaps, that a CDS "cannot be created with the same legal entity on both sides of the transaction. . . ." (Ds.'s Findings, ¶ 29.) Even if parol evidence were properly considered, there was substantial evidence in the record that internal swaps were common in securitizations of synthetic assets. (LeRoux Testimony, Trial Tr. at 1673-1676; (Vinella Testimony, Trial Tr. at 1158-1162 [denying that intracompany swaps are "economic transactions" but acknowledging their use in CLO securitizations].)

properly calculate the collateral call[.]” (Ds.’s Findings, ¶¶ 23, 27-28.) In support of this contention, Highland relies on the testimony of its expert Peter Vinella. According to Mr. Vinella’s own analysis, however, if the Lehman swaps are excluded from the calculation for the third collateral call, but the Internal Swaps are included, the total increase in the Deposit Threshold Exposure Amount as of November 4, 2008 is \$328.62 million—an amount greater than the \$300 million required to authorize the third collateral call pursuant to Section 12 of the SWA. (Vinella Testimony, Trial Tr. at 1122-1139; DX Demo. 8.) Louis Dudney, UBS’s expert in forensic accounting and damages (Trial Tr. at 824), analyzed Mr. Vinella’s testimony and confirmed, using the same numbers as Mr. Vinella, that the Deposit Threshold Exposure Amount still exceeded \$300 million on November 4, 2008, after excluding the Lehman Swaps but including the Internal Swaps. (PX Demo. 20 [accepted without objection in lieu of Dudney rebuttal testimony, Trial Tr. at 1870-1871].)

Based on this credible testimony that the threshold for the collateral call was met without the Lehman Swaps, the court holds that the third collateral call did not constitute a material breach of the contract, notwithstanding UBS’s improper inclusion of the Lehman Swaps in the calculation.¹¹ (See generally Awards.Com v Kinko’s, Inc., 42 AD3d 178, 187 [1st Dept 2007], affd 14 NY3d 791, 793 [2010]; Frank Felix Assocs., Ltd. v Austin Drugs, Inc., 111 F3d 284, 289 [2d Cir 1997] [under New York law, for a breach to be material, “it must go to the root of the agreement between the parties”] [internal quotation marks and citations omitted].)

¹¹ In view of this holding that the Deposit Threshold Exposure Amount exceeded \$300 million as of November 7, 2008, the court need not reach UBS’s contention that the collateral call was proper because the Deposit Threshold Exposure Amount exceeded \$300 million as of December 2, 2008, prior to the termination of the transaction. (Ps.’s Findings, at 15 n 10.)

As discussed above, there is no dispute that the Fund Counterparties failed to meet the third collateral call. The court accordingly finds that the Fund Counterparties breached the SWA and turns to the issue of damages.

DAMAGES

Designation of Ineligible Securities

A critical issue in determining UBS's damages is whether UBS may recover damages for CDSs that UBS retained after its termination of the 2008 transaction, under these circumstances in which UBS did not designate the underlying reference obligations for any of the CDSs as "Ineligible Securities." Resolution of this issue requires interpretation of the SWA. Highland and UBS both contend that the SWA is unambiguous as to whether Ineligible Securities must be designated, but assert fundamentally inconsistent readings of the Agreement. (Ds.'s Findings, ¶¶ 44-49; see Ps.'s Findings, at 29 n 21.)

As held above, the determination of whether a contract is ambiguous is one of law to be resolved by the court. (Matter of Wallace, 86 NY2d at 548.) Ambiguity will be found to arise where the terms of a contract are "subject to more than one reasonable interpretation." (Universal Am. Corp., 25 NY3d at 680 [internal quotation marks and citation omitted].) As also held above, a court should construe a contract so as to give full meaning and effect to its material provisions, and should read the contract as a whole and so as not to render any portion meaningless, if possible. (See Beal Sav. Bank, 8 NY3d at 324-25.)

Sections 5 (A), 5 (B), and 6 of the SWA are relevant to the calculation of CDS damages: Section 5 (A) provides for the calculation of losses with respect to CDSs removed from the warehouse during the term of the Agreement or "otherwise pursuant to Section 6"; Section 5 (B) (2) governs the calculation of losses upon a closing; and Section 6 governs this calculation in the event of a failure to close, incorporating terms from Sections 5 (A) and 5 (B).

Section 6 provides in pertinent part:

- “(A) If the Closing Date fails to occur on or prior to the Termination Date, then UBS may, with the consent of the related counterparty, either (at the election of the Servicer; provided that notice of such election is received on or prior to the Termination Date) (i) terminate each Credit Default Swap or (ii) novate each Credit Default Swap to a third party or to the Servicer (or any Affiliate of the Servicer designated by the Servicer), in each case, on the Termination Date.

- (C) To the extent there are any CDS Losses, the CDO Fund and SOHC shall collectively be responsible for 100% of any such CDS Losses. Such CDS Losses shall be allocated between the CDO Fund and SOHC on the basis of their respective Allocation Percentages. Each of the CDO Fund and SOHC shall, after notice of the amount due from UBS, remit such amounts by wire transfer in immediately available funds to UBS within three Business Days after the Termination Date.”

CDS Losses are in turn defined in Section 5 (B) (2), the closing

provision, as:

“(x) the sum of (1) the aggregate Floating Amount payments and Physical Settlement Amount payments made by UBS with respect to all of the Credit Default Swaps as to which a Floating Amount Event or a Credit Event occurred under the terms thereof, plus (2) the aggregate amount of Net Hedging Payments made by UBS with respect to all Hedging Transactions related to the Credit Default Swaps, plus (3) the aggregate Replacement Losses determined with respect to all of the Credit Default Swaps and the related Hedging Transactions that were terminated or novated or as to which the exposure was retained by UBS, in each case upon the designation of the Reference Obligation relating to such Credit Default Swap as an Ineligible Security (such amount in this clause (x), the ‘CDS Losses’)”

Relying on the requirement in the definition of CDS Losses that Reference Obligations be designated as Ineligible Securities, Highland argues that “[t]he term ‘CDS Losses’

unambiguously limits UBS's recovery for unrealized (mark-to-market) losses to securities designated as 'Ineligible Securities,' and the Court is bound to enforce the agreement pursuant to its unambiguous terms." (Ds.'s Findings, ¶ 46.) Put another way, Highland argues that UBS may recover mark-to-market losses only on CDSs that have been designated Ineligible Securities. (*Id.*, ¶ 53.)¹² UBS asserts, among other things, that under Section 6, UBS may terminate, novate, or retain CDSs regardless of eligibility, that ineligibility designations are not relevant absent a closing, and that Highland's reading renders meaningless other provisions of the SWA. (Ps.'s Findings, at 29 n 21.)

Upon close reading of the SWA, the court concludes that the SWA is not ambiguous with respect to ineligibility designations and that, under Section 6, upon the failure to close UBS is entitled to retain CDSs and to recover losses for the retained CDSs, without first designating the underlying Reference Obligations as Ineligible Securities. Section 6 (A) expressly provides for UBS to terminate or novate the CDSs, and does not require UBS to first make such designation. Although Section 6 (A) does not also, by its terms, provide for UBS to retain CDSs, a reading of the contract as a whole leaves no question that UBS was not only entitled to retain the CDSs upon the failure to close, but also that it was entitled to recover losses on the retained CDSs without first designating the underlying Reference Obligations as Ineligible.¹³

¹² Highland's damages expert, Adam Warren, testified that realized losses are losses sustained where a transaction has been closed out and an actual cash payment has been made. (Warren Testimony, Trial Tr. at 1249, 1253.) He also testified that, in his opinion, there were no unrealized losses in the Synthetic Warehouse because no assets had been designated as ineligible. (*Id.* at 1257 ["[O]ur computation is that there are no unrealized losses in the Synthetic Warehouse because of the need to . . . create a designation of ineligible. And we saw no evidence of any Synthetic Warehouse asset being designated ineligible".])

¹³ In its decision of defendants' motion for summary judgment, this court held that it could not determine on the record of that motion whether the SWA was ambiguous with respect to UBS's entitlement to recover losses on retained CDSs, pursuant to Section 6, without a prior designation of such assets as Ineligible Securities. (2017 NY Slip Op. 30546[U], 2017 WL 1103879, * 4-7 [Sup Ct, NY County Mar. 13 2017], aff'd 159 AD3d 512, lv dismissed 32 NY3d 1080.) With the benefit of the parties' extensive trial briefing on this issue, the court now concludes, for the reasons discussed further in the text, that the agreement is not ambiguous.

As the above-quoted definition of CDS Losses in Section 5 (B) (2) shows, this definition relates to Credit Default Swaps which, upon a closing, have been “terminated or novated or as to which the exposure was retained by UBS, in each case upon the designation of the Reference Obligation relating to such Credit Default Swap as an Ineligible Security” After setting forth the definition of CDS Losses (and CDS Gains) in the context of a closing, Section 5 (B) (2) further provides: “To the extent the Closing Date fails to occur, allocation of CDS Losses, CDS Gains and any other amounts payable hereunder will be determined in accordance with the provisions of Section 6 hereof.”

Significantly, while Section 6 (C) incorporates the defined term CDS Losses, the term CDS Losses also incorporates both the definition of Ineligible Security and the term Replacement Losses from Section 5 (A). These incorporated terms modify the definition of CDS Losses where a closing does not occur.

The definition of Ineligible Security pertains to securities that are ineligible for securitization upon a closing. The SWA thus defines Ineligible Security, in pertinent part, as “any Reference Obligation in the CDS Portfolio which has become ineligible for sale to the Issuer on the Closing Date as a result of the failure of such Reference Obligation to conform to the Eligibility Criteria as it exists at such time of determination” (SWA, Exhibit A-2 [emphasis added].)

Section 5 (A), which defines the term Replacement Losses, distinguishes between such Losses sustained during the term of the Agreement and those sustained upon termination in the event of a failure to close pursuant to Section 6. Section 5 (A) primarily addresses the removal of CDSs from the warehouse “during the term of this [the SWA] Agreement” where “a Reference Obligation or the related Credit Default Swap does not conform to the Eligibility Criteria” that must be met for securitization. This section provides that “UBS shall be entitled in

good faith to designate any Reference Obligation (and the related Credit Default Swap) as an Ineligible Security and (ii) in its sole discretion to remove any such Reference Obligation (and the related Credit Default Swap) from the CDS Portfolio.” Section 5 (A), however, continues:

“To the extent any such Credit Default Swaps are terminated or novated, or at UBS’s discretion, such exposure is retained following the designation of such Reference Obligations as Ineligible Securities or otherwise pursuant to Section 6, UBS shall determine the Replacement Gain or Replacement Loss relating to such Credit Default Swaps [according to the formula that follows].”

(emphasis added). Section 5 (A) then sets forth a formula for calculating Replacement Gain and Replacement Loss, which specifically provides for such calculation not only upon termination or novation but also upon UBS’s retention of the CDSs. (SWA § 5 [A] [1] – [3].)

Section 5 (A) thus clearly contemplates that UBS may novate, terminate, or retain CDSs both during the term of the Agreement and in the event of a failure to close. The Section affords UBS the discretion to terminate, novate, or retain CDSs “pursuant to Section 6,” as distinct from its discretion to do so upon a designation of the underlying Reference Obligation as Ineligible during the term of the Agreement. Any other reading would render meaningless the Section 5 (A) provision “or otherwise pursuant to Section 6.”

Moreover, in order to reconcile all of the provisions of the SWA, the Section 5 (B) (2) definition of CDS Losses, when used in Section 6, cannot be construed as requiring a designation of Ineligible Securities. As discussed above, Ineligible Securities are defined as securities ineligible for sale at a closing. Section 5 (B) (2), which governs the calculation of losses where a closing will occur, requires the designation of Ineligible Securities to facilitate the parties’ calculation of losses on assets deemed ineligible for inclusion in the securitization that will occur upon the closing. When a closing will not occur, none of the CDSs or other assets will be securitized, and there is no need to distinguish between eligible and ineligible assets. While the

definition of CDS Losses with the Ineligible Security designation requirement serves the purposes of Section 5 (B) (2) in the event of a closing, it is inconsistent with the CDS Loss calculation required in Section 6 where the closing does not occur.

Contrary to Highland's apparent contention (Ds.'s Findings, ¶ 46), a reading of the CDS Loss provision in Section 6 to permit calculation of losses on retained assets without an Ineligible Security designation does not violate the fundamental precept that a defined term in a contract must be given effect. (See generally Mionis v Bank Julius Baer & Co., 301 AD2d 104, 109 [1st Dept 2002].) Rather, the CDS Loss definition, as used in Section 6, is modified by the contractual provisions discussed above.

Although inartfully drafted, the SWA is not ambiguous. If the contract is read as a whole, and all of the provisions are given meaning, it is reasonably susceptible to only one meaning—namely, that CDS Losses for retained assets may be recovered without a designation of the underlying Reference Obligations as Ineligible Securities where, as here, the contract has been terminated before the closing.¹⁴ The court accordingly holds that UBS is entitled to recover damages for the retained CDSs in the Synthetic Warehouse.¹⁵

Calculation of Damages

As discussed above, UBS terminated the transaction based on the Fund Counterparties'

¹⁴ The court notes that the SWA and the Cash Warehouse Agreement (CWA) both contain provisions which state that the two agreements "set forth the entire understanding of the parties hereto relating to the subject matter hereof . . ." (SWA, § 18; CWA, § 18.) Assuming, without deciding, that these agreements should be read together in construing the SWA, the court finds that, although the assets at issue in the SWA and the CWA have markedly different attributes, the CWA is consistent with the SWA to the extent that the CWA permits UBS, in the event a closing does not occur, to retain and recover for losses on the CLOs that are the subject of the CWA, without a designation of the CLOs as Ineligible Securities. (See CWA, §§ 5 [A], 7 [A].)

¹⁵ In view of this holding that the SWA is not ambiguous as to whether CDS losses may be recovered without designation of the underlying Reference Obligations as Ineligible Securities, the court has not considered any parol evidence, either documentary or testimonial, in construing the SWA in this regard. Without limiting the foregoing, the court has not considered prior drafts of the SWA, which Highland offered in the event parol evidence were to be admitted. (See Ds.'s Findings, ¶ 53.)

failure to meet the third collateral call. UBS sent Highland a notice, dated December 3, 2008, stating that a Termination Date had occurred under the Warehouse Agreements but that it would forbear from exercising its remedies for two days to permit the Fund Counterparties to meet this collateral call. (PX 7.) UBS then sent a further notice to Highland, dated December 5, 2008, stating that it would exercise its remedies as the call had not been met. (PX 8.) UBS held a public auction of the assets in the Knox Warehouse on December 16, 2008. By notice dated December 19, 2008, UBS demanded payment for its claimed losses based on the results of the auction—\$157,949,885.47 for the assets in the Cash Warehouse (PX 10) and \$587,357,060.59 for the assets in the Synthetic Warehouse. (PX 11.) UBS also notified Highland that it elected to retain the Collateral Obligations in the Cash Warehouse. (PX 10.)

CDS Damages

Highland argues that even if the recovery of damages for the CDSs is not barred by UBS's failure to designate the Reference Obligations for the CDSs as Ineligible Securities (a claim this court has rejected above), UBS has not proved damages for these CDSs. Specifically, Highland contends that UBS did not comply with the contractual requirements for calculation of losses because its post-termination auction was untimely and otherwise improper. (Ds.'s Findings, ¶¶ 57-59.) Highland also contends that UBS's marks do not otherwise "establish a reasonable connection between the asset value and UBS's alleged damages." (*Id.*, ¶¶ 60-65.) UBS disputes these assertions. (Ps.'s Findings, at 29-31.)

Sections 6 (C), 5 (B) (2), and 5 (A) (3) are the provisions of the SWA that govern the calculation of CDS Losses upon termination. Section 6 (C) provides in full:

"To the extent there are any CDS Losses, the CDO Fund and SOHC shall collectively be responsible for 100% of any such CDS Losses. Such CDS Losses shall be allocated between the CDO Fund and SOHC on the basis of their respective Allocation Percentages. Each of the CDO Fund and SOHC shall, after notice of the amount due from UBS, remit such

amounts by wire transfer in immediately available funds to UBS within three Business Days after the Termination Date.”

As discussed above, the definition of CDS Losses in Section 5 (B) (2) includes Replacement Loss, the calculation of which is governed by Section 5 (A). With respect to Replacement Loss relating to CDSs that are retained, Section 5 (A) (3) provides in full:

“To the extent UBS retains such exposure, the Replacement Gain and Replacement Loss will be imputed based on the arithmetic average of at least three bids (or, if UBS is unable to obtain three such bids having made commercially reasonable efforts, such lesser number of bids as UBS is able to obtain) obtained by or on behalf of UBS from nationally recognized derivatives dealers in the relevant market (no more than one of which may be UBS or any of its Affiliates; provided that any such bid must be provided in good faith) to assume UBS’s position under such Credit Default Swap.”

The SWA, by its terms, thus contemplated that payment would be made within three days after the Termination Date, subject to notice from UBS. As the SWA provided for an auction to calculate the amount of the losses, it also contemplated that an auction could or would occur within that three day period.

By the terms of UBS’s notices to Highland, although a Termination Date had occurred as of December 3, UBS extended the Fund Counterparties’ time to meet the third collateral call until December 5. The court thus finds that the Fund Counterparties’ breach of the Agreements for failure to meet the third collateral call occurred on December 5. UBS did not conduct the auction to calculate the CDS Losses until December 16.

UBS’s delay of approximately 11 days in conducting the auction, while seemingly de minimis, in fact had momentous financial consequences, given that the delay occurred in the wake of the September 15, 2008 Lehman bankruptcy filing and at the height of the financial crisis. With the market spiraling downward, the CDS losses ascertained through the auction process were approximately \$117 million more than the losses calculated by using UBS’s marks

on either December 3 or December 5. (PX Demo. 21; DX Demo. 12 [showing UBS and Highland marks as of December 3 and 5; PX Demo. 28 at 60 [Ps.'s Closing Statement Demonstrative Exhibit, acknowledging that CDS damages, as calculated based on the auction, exceeded the losses calculated using UBS's marks on December 3 and 5 by over \$117 million].)¹⁶

UBS contends that the three day payment period was for its benefit and that it "could exercise its right to get paid after three business days without waiver." (Ps.'s Findings, at 28.) The court agrees that UBS's delay in demanding payment or holding the auction did not result in a waiver of its right to seek payment of its damages resulting from the Fund Counterparties' breach. (See SWA § 20 ["Neither the failure nor any delay on the part of any party hereto to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver hereof. . . ."].) Highland correctly contends, however, that the delayed auction could not serve as a basis for calculating UBS's damages because the results of the auction did not reflect market conditions as of the date of termination or breach. (See Ds.'s Findings, ¶ 57.)

As explained by the Court of Appeals:

"It has long been recognized that the theory underlying damages is to make good or replace the loss caused by the breach of contract. Damages are intended to return the parties to the point at which the breach arose and to place the nonbreaching party in as good a position as it would have been had the contract been performed. Thus, damages for breach of contract are ordinarily ascertained as of the date of the breach."

(Brushton-Moira Cent. Sch. Dist. v Fred H. Thomas Assocs., P.C., 91 NY2d 256, 261

[1998] [internal citations omitted].)

¹⁶ At the trial, the parties stipulated to dispense with rebuttal testimony from plaintiffs' damages expert, Louis Dudney and, in lieu of such testimony, to the admission into evidence of plaintiffs' Demonstrative Exhibits 20 and 21, and defendants' Demonstrative Exhibit 12. (Trial Tr. at 1868, 1870 [Stipulation].) PX Demo. 21 and DX Demo. 12, which were prepared by Mr. Dudney, calculated damages using plaintiffs' and defendants' marks, respectively, on December 3 and 5, 2008. (Trial Tr. at 1870-1877.)

It is further settled that damages need not be proven with mathematical certainty. It is sufficient that a reasonable basis for the calculation of damages be shown. (See generally J.R. Loftus, Inc. v White, 85 NY2d 874, 877 [1995] [“While a plaintiff may recover damages when the measure of damages is unavoidably uncertain or difficult to ascertain, a reasonable connection between a plaintiff’s proof and a [] determination of damages is nevertheless necessary”]; CDO Plus Master Fund Ltd. v Wachovia Bank, N.A., No. 07 Civ. 11078 [LTS], 2011 WL 4526132, *2 [US Dist Ct SD NY, Sept. 29, 2011] [“The law of New York is clear that once the fact of damage has been established, the non-breaching party need only provide a stable foundation for a reasonable estimate [of damages]” [internal quotation marks and citations omitted, brackets in original].)

UBS’s December 16, 2008 auction cannot satisfy either of these standards because, as held above, the auction did not provide a reliable basis for determining UBS’s losses at, or even shortly after, the breach, due to the exceptional circumstances presented by the financial crisis.¹⁷ The court accordingly turns to the alternative basis advanced by UBS for the calculation of damages—its marks on December 5, 2008. (Ps.’s Findings, at 29.)

It is well settled that “where the breach involves the deprivation of an item with a determinable market value, the market value at the time of the breach is the measure of damages.” (Sharma v Skaarup Ship Mgt. Corp., 916 F2d 820, 825 [2d Cir 1990], cert denied 499 US 907 [1991] [applying New York law and citing Simon v Electrospace

¹⁷ There is authority that “in accordance with the objective that a party seeking recovery for breach of contract is entitled ‘to be made whole’ as of the time of the breach, the [factfinder] should be able to make its valuation determination on all relevant elements of the case, whether dated prebreach, on the date of breach, or ‘some short time period thereafter.’” (Credit Suisse First Boston v Utrecht-America Fin. Co., 84 AD3d 579, 580 [1st Dept 2011] [quoting Boyce v Soundview Tech. Group, Inc., 464 F3d 376, 389 [2d Cir 2006] [other internal quotation marks and citations omitted].) Although the auction was held shortly after the breach, this authority does not support calculation of damages based on the auction results, as the auction did not provide a reliable basis for assessing the losses.

Corp., 28 NY2d 136, 145-146 [1971], motion to amend remittitur and clarify denied 28 NY2d 809].) In accordance with the objective that the injured party be made whole, “damages for breach of contract are ordinarily ascertained as of the date of the breach.” (Brushton-Moira Cent. Sch. Dist., 91 NY2d at 261.)

UBS offered credible testimony that its December 5, 2008 marks reasonably reflected the market value of the CDSs as of the December 5 breach date. In particular, Timothy LeRoux, who at the time of the transaction was second in command to Mr. Grimaldi on the UBS trading desk (LeRoux Testimony, Trial Tr. at 1640), gave credible testimony that, in the regular course of business, the trading desk “marked to market” hundreds of CLO assets, and every week or two was required to assign values on every one of the assets, both cash and synthetic, in the Knox Warehouse. (Id. at 1724.) Mr. LeRoux also described the marking process and identified information, including public information as to offers and bids on CDSs in the marketplace, that UBS considered in developing “objective” prices. (Id. at 1727, 1745-1750.) Mr. Grimaldi also testified that, although the trading desk performed the mark-to-market valuation of the assets in the Knox Warehouse, the UBS valuation group established oversight due to the volatility of the market and “would look at other market observations and make sure that those [the trading desk marks] were in line with the marketplace.” (Grimaldi Testimony, Trial Tr. at 207-208.)

Highland does not dispute that the mark-to-market process is a methodology for determining loss in market value of retained assets. (See e.g. Testimony of Adam Warren [Highland’s damages expert], Trial Tr. at 1268-1269; Testimony of Philip Braner [Highland former executive], Trial Tr. at 469-472; Testimony of UBS’s Timothy LeRoux, Trial Tr. at 1640, 1727-1729.)

Rather, in claiming that UBS’s marks are not competent evidence on which to award damages, Highland suggests that the setting of marks by the trading group involved a conflict of

interest, because the trading group's bonuses were based on the performance of the mark-to-mark assets and the group had the incentive to inflate the value of the assets. (Ds.s' Findings, ¶¶ 61-62.) Highland makes no showing that UBS inflated the value of the CDSs or that trading groups do not routinely develop marks. Moreover, Highland's assertion that "UBS's trading group alone set the marks for the Knox Warehouse assets" (Ds.'s Findings, ¶ 62) ignores UBS's credible testimony, discussed above, that the valuation group exercised oversight in connection with the development of the marks.

Highland's further assertion that its own marks are more reliable (Ds.'s Findings, ¶ 65) is unsupported by persuasive evidence. Philip Braner, who ultimately became Chief Operating Officer of the Highland Capital Management CLO Group and COO of Highland Financial Partners (Braner Testimony, Trial Tr. at 397), testified that Highland was itself tracking marks on the assets in the Knox Warehouse (*id.* at 615) and had an "internal valuation team that was responsible for accumulating marks" in a process in which portfolio managers of the Highland funds participated. (*See id.* at 467.) While Highland appears to assert that its marks are more reliable than UBS's because they were set by a valuation team, Highland fails to show that the role of its valuation team differed in any material respect from that of the UBS valuation group that performed oversight on its trading group in the marking process.

Notably, Highland fails to explain how its methodology in setting marks was more reliable than UBS's. Adam Warren, Highland's damages expert, forthrightly testified that he was not opining on the reasonableness of any marks in this case (Warren Testimony, Trial Tr. at 1247-1248), and he did not in fact give any testimony on whether UBS's or Highland's marks were more reliable.

The evidence at trial also demonstrated that Highland, like UBS, set marks on the CDSs on an asset by asset basis from March 2008 through October 2008. While there were differences

between Highland's and UBS's marks during this period, the Highland and UBS marks in the month of October were substantially similar. The difference in the marks did not escalate substantially until November 2008. (PX Demo. 9, at 4.) Mr. Dudney gave testimony, which was not disputed, that although Highland, like UBS, had been setting marks on an asset by asset basis, Highland stopped doing so as of October 2008 and, in a November 30, 2008 calculation of damages, attributed the same mark (37) to each asset. (Dudney Testimony, Trial Tr. at 883-884, 905-909, DX 116.) Highland offered no explanation for this change in methodology. Mr. Dudney, in contrast, gave plausible testimony that this use of the same mark did not make sense given the deterioration of the market. (Id. at 908.)

In sum, based on the credible evidence at the trial, the court holds that UBS has met its burden of demonstrating that its December 5, 2008 marks provide a reasonable basis, under the circumstances, for the calculation of damages at the time of the breach. In so holding, the court rejects Highland's not fully articulated contention that only an auction, and not a mark-to-market methodology, is a reliable method for calculating damages. (See Ds.'s Findings, ¶ 59.) Highland's reliance on the testimony of its damages expert, Adam Warren, in support of this contention (see id.) is misplaced. While Mr. Warren testified that CDSs are "bespoke contracts," he did not give any testimony that an auction was required to ascertain their value.

Further, as held above, the auction did not provide a reliable basis for determining UBS's damages due to the volatility of the market at the time of the auction. It bears emphasis that, although the market was also volatile at the time the December 5, 2008 marks were accumulated, Highland has not advanced an alternative, other than the non-viable auction, to the mark-to-market valuation methodology. Nor has Highland made any showing that the market value of

the CDSs was not reasonably determinable as of the date of breach using the mark-to-market valuation methodology.¹⁸

The court further holds that UBS has met its burden of demonstrating the reasonableness of its calculation of damages using those marks. UBS's and Highland's experts both provided the court with calculations of damages using UBS's and Highland's marks, respectively, as of December 5, 2008. Mr. Warren confirmed that his main differences with Mr. Dudney regarding the calculation of damages for the Synthetic Warehouse were that Mr. Dudney considered it appropriate, and he did not, to include damages for unrealized CDS losses and for the 20 Internal Swaps in which UBS was both the protection seller and the protection buyer. (Warren Testimony, Trial Tr. at 1298; DX Demo. 12; PX Demo. 21; see also Dudney Testimony, Trial Tr. at 1004.)

Mr. Warren excluded from his damages calculation unrealized CDS losses for all CDSs as to which a designation of ineligibility had not been made. He testified that his basis for doing so was his understanding of the contract—i.e, his understanding that the SWA required such designation—and not industry custom. (Warren Testimony, Trial Tr. at 1281-1282.) For the reasons discussed above, this court has rejected Highland's position that the SWA should be

¹⁸ In its post-trial briefing, Highland sought a finding that if UBS is held to be entitled to recover damages for CDS losses, Highland's marks are more reliable than UBS's for determining those damages. (Ds.'s Findings, ¶ 65.) Highland did not argue that the market value of the losses could not reasonably be determined by using marks. In contrast, in support of its claim that it is entitled to an offset against CDS damages for post-breach termination payments received by UBS on the CDSs, Highland questioned the accuracy of the market valuation at the time of the breach. Highland thus asserted in a footnote: "Given the scant market pricing data available at the time of the breach, post-termination payments and asset dispositions are relevant for the additional reason that they provide a more accurate measurement of the actual value of the Knox assets." (Ds.'s Post-Trial Memo., at 8 n 5.) This assertion is unsupported by any citation to trial testimony. More important, at the trial Highland did not offer any expert testimony that the mark-to-market methodology was not a reliable basis for calculating the CDS damages. For the additional reasons set forth in the section of this decision on Highland's requested Offset for Post-Breach Appreciation In CDS Asset Value, the court finds that offset of post-breach payments received by UBS on the CDSs would be inconsistent with calculation of UBS's damages based on their market value at the time of the breach.

construed as requiring ineligibility designations as a condition of the inclusion of unrealized losses on the CDSs in the calculation of damages. Also for the reasons discussed above, the court has rejected Highland's position that the losses on the Internal Swaps should not be included in this calculation.

Review of the experts' calculations shows, moreover, that when such losses are included in the calculations, the difference between Highland's and UBS's totals is substantially reduced. As previously noted, the parties stipulated to the introduction into evidence of charts prepared by Mr. Dudney comparing his and Mr. Warren's calculations of CDS damages using UBS's and Highland's marks as of December 5, 2008. Using Highland's marks, Mr. Dudney calculated CDS mark-to-market losses of \$388,284,750, compared to Mr. Warren's calculation of \$26,952,895—a difference of \$361,331,855. (DX Demo. 12.) Using UBS's marks, Mr. Dudney calculated losses of \$470,113,605, compared to Mr. Warren's calculation of \$26,952,895—a difference of \$443,160,710. (PX Demo. 21.)

The difference in the totals is largely due to Mr. Warren's exclusion from his calculation of all unrealized CDS losses and all losses for the Internal Swaps. (Warren Testimony, Trial Tr. at 1296-1299.) His calculation of \$26,952,895 for CDS losses includes only realized CDS losses. (Id. at 1250.) According to Mr. Warren, the Internal Swaps account for \$93,952,173 of the CDS damages using UBS's marks, or \$68,801,027 using Highland's marks. (Id. at 1269.) Although Mr. Warren disputed UBS's entitlement to unrealized CDS losses, he performed a calculation including such losses. Using UBS's marks as of December 5, 2008, these losses totaled \$355,487,606. (DX Demo. 10, at 14.) Using Highland's marks as of that date, these losses totaled \$299,118,973. (Warren Testimony, Trial Tr. at 1269; DX Demo. 10, at 14.) Mr. Warren's total, using UBS's marks, for the Internal Swaps (\$93,952.173) and the unrealized CDS losses (\$355,487,606) was \$449,439,779. (DX Demo. 10, at 14.) As stated above, Mr. Dudney's

calculation of total Synthetic Warehouse losses, using UBS's December 5, 2008 marks, was \$470,113,605. Given the magnitude of the damages, this disparity is not material.

The court accordingly holds that UBS incurred losses in the Synthetic Warehouse of \$470,113,605 as of December 5, 2008, the date of the breach, subject to the adjustments discussed below.

CLO Damages

Highland does not dispute that unrealized losses are recoverable for the CLO assets. (Warren Testimony, Trial Tr. at 1293.) Moreover, UBS's (Mr. Dudney's) and Highland's (Mr. Warren's) calculations of the CLO losses as of December 5, 2008 are the same: Using Highland's marks, these losses were \$106,157,101. (DX Demo. 12, at 2.) Using UBS's marks, the losses were \$128,848,101. (PX Demo. 21.) Having concluded that UBS's damages were properly calculated based on UBS's marks as of December 5, 2008, the date of the breach, the court holds that UBS incurred losses in the Cash Warehouse of \$128,848,101, subject to the adjustments discussed below.

Adjustments to Damages Calculation

In calculating the Synthetic and Cash Warehouse losses, Mr. Dudney and Mr. Warren made adjustments for the same items: carry (premiums and interest), collateral value, financing fees, and financing savings. Mr. Dudney's adjustment of \$79,587,557 and Mr. Warren's adjustment of \$76,632,634 did not differ materially. (PX Demo. 21.) According to Mr. Warren, the difference of approximately \$3 million is due to Mr. Warren's exclusion of the Internal Swaps in calculating the carry. (Warren Testimony, Trial Tr. at 1298-1299.) As the court has held that the Internal Swaps were properly included in the damages calculation, Mr. Dudney's adjustments will be accepted.

Reducing UBS's damages by the adjustments, the court holds that UBS sustained total

damages of \$519,374,149 (Cash Warehouse Losses of \$128,848,101 plus Synthetic Warehouse Losses of \$470,113,605 minus \$79,587,557).

OFFSETS

Offset for Post-Breach Appreciation In CDS Asset Value

A central issue in this action is whether Highland is entitled to an offset against UBS's damages for appreciation in the value of the CDSs after the breach. The parties stipulated that UBS received post-breach termination payments net of carry on the CDSs, including the Internal Swaps, in the amount of \$202,223,059. (DX 491.) It is undisputed that these payments were received months and, for many of the CDSs, years after the termination of the transaction. (Ds.'s Post-Trial Memo., at 10 [acknowledging that UBS "liquidated the assets years later"]; PX 335 [spreadsheet showing termination dates for CDSs through 2011].)

Highland argues that, at the time the transaction was terminated, "frozen credit markets had created a severe mismatch between the assets' alleged market value and their actual value based on their cash flows." (Ds.'s Post-Trial Memo., at 10.) Highland further argues that UBS was able to sell these assets for hundreds of millions of dollars more than their December 2008 marks and that, while UBS is entitled to retain the sale proceeds, "it cannot ignore these monies in calculating the harm it actually suffered." (*Id.* at 11.) According to Highland, if disposition of the assets after the termination is not considered, UBS will receive "an enormous windfall." (*Id.*) UBS acknowledges that if a non-breaching party obtains a benefit "because of the breach," the benefit must be offset against the non-breaching party's damages. (Ps.'s Post-Trial Memo., at 6 [emphasis UBS's].) UBS argues, however, that the Fund Counterparties' breach was not a but for cause of the post-breach payments UBS received for the CDSs. (*Id.* at 7.) Rather, subsequent gains that resulted from UBS's disposition of the assets were "the result of UBS's contractual rights [to retain the assets] in the event of any termination and of its subsequent

investment strategy.” (Id. at 14.) According to UBS, the Fund Counterparties’ proposed offset would deprive UBS of the benefit of the bargain and result in a windfall for the Fund Counterparties. (Id.)

As discussed above, contract damages are intended to make “good or replace the loss” caused to a party by the breach of contract and “to place the nonbreaching party in as good a position as it would have been had the contract been performed. Thus, damages for breach of contract are ordinarily ascertained as of the date of the breach.” (Brushton-Moira Cent. Sch. Dist., 91 NY2d at 261.) Further, “where the breach involves the deprivation of an item with a determinable market value, the market value at the time of the breach is the measure of damages.” (Sharma, 916 F2d at 825 [applying New York law and citing Simon, 28 NY2d at 145-146].)

The calculation of damages is also subject to the fundamental precept that where a non-breaching party acquires a “benefit or opportunity for benefit . . . because of the breach, a balance must be struck between benefit and loss” and the benefit must be offset against the non-breaching party’s damages. (Indu Craft, Inc. v Bank of Baroda, 47 F3d 490, 495 [2d Cir 1995] [applying New York law]; accord Aristocrat Leisure Ltd. v Deutsche Bank Trust Co. Americas, 727 F Supp 2d 256, 289 [SD NY 2010]; “[I]f a victim derives a benefit from the breaching party’s breach of contract, the breaching party only is responsible for the victim’s net loss”], reconsideration denied 2010 WL 3431132; Fertico Belgium S.A. v Phosphate Chemicals Export Assn., Inc., 70 NY2d 76, 84 [1987], rearg denied 70 NY2d 694 [holding, in a “cover” action governed by the Uniform Commercial Code, that “[g]ains made by the injured party on other transactions after the breach are never to be deducted from the damages that are otherwise recoverable, unless such gains could not have been made, had there been no breach”] [quoting 5 Corbin, Contracts § 1041].)

Here, although UBS and Highland agree that any benefit derived by UBS because of the breach must be offset against its losses, neither party has cited, and the court's own research has not located, any case in which a court has considered how to apply this precept to a non-breaching party's retention of assets upon a failed securitization transaction and realization of subsequent gains. There is, however, a substantial body of law involving a breaching party's failure to deliver or purchase assets subject to fluctuations in value, in which the courts have assessed damages based on the market value of the assets at the time of breach and have declined to consider any subsequent increases or decreases in value of the assets. As discussed further below, the court concludes that these cases are inconsistent with the offset sought by Highland.

As the Second Circuit has explained in reviewing this body of law, New York courts reject damage awards "based on what 'the actual economic conditions and performance' were in light of hindsight." (Sharma, 916 F2d at 826, quoting Aroneck v Atkin, 90 AD2d 966, 967 [4th Dept 1982], lv denied 59 NY2d 601 [1983].) "They have explicitly rejected the use of subsequent changes in value or profits where they would increase an award, and where they would decrease the award." (Sharma, 916 F2d at 826 [internal citations omitted].)

In the securities context, courts have repeatedly held that the damages for failure to deliver or purchase shares of stock should be based on their market value at the time of breach, and not on any subsequent increase or decrease in their value. (Simon, 28 NY2d at 145-146 [where the seller breached a contract to deliver shares, holding: "The proper measure of damages for breach of contract is determined by the loss sustained or gain prevented at the time and place of breach. The rule is precisely the same when the breach of contract is nondelivery of shares of stock"] [internal citations omitted]; Aroneck, 90 AD2d at 967 [where the buyer breached a contract to purchase shares, holding that

damages should be based on market value at the time of breach, and rejecting the buyer's theory that the "value should be based on the actual economic conditions and performance" of the company post-breach]; Emposimato v CIFC Acquisition Corp., 89 AD3d 418, 421 [1st Dept 2011] [quoting Aroneck and citing Simon in holding that "[i]n the case of a breach of contract to sell securities, expectation damages are calculated as 'the difference between the agreed price of the shares and the fair market value at the time of the breach'"]; Oscar Gruss & Son, Inc. v Hollander, 337 F3d 186, 197 [2d Cir 2003] [following Simon and Aroneck in a case involving the defendant's breach of a contract to deliver warrants]; see also Kaminsky v Herrick Feinstein LLP, 59 AD3d 1, 11-12 [1st Dept 2008], lv denied 12 NY3d 715 [2009] [holding that damages for breach of contract to deliver shares prior to an initial public offering (IPO) should be awarded based on the value of the shares at time of the breach, not their higher value post-IPO].)

The court holds that these cases involve transactions that are analogous to (although far less complex than) the transaction at issue, and apply the same measure of damages that this court has adopted above—namely, the measure of damages based on the market value of the assets on the date of the breach. These cases accordingly govern the calculation of damages here. The court notes, moreover, that sound reasons support the application of this measure of damages without consideration of post-breach fluctuations in the value of the assets.

As the Second Circuit reasoned, a contrary rule that would permit calculation of damages at the time of trial "would be a two-edged sword, because courts would have to diminish damage awards where the value of the item decreased or where losses were encountered subsequent to the breach as well as enhance them where conditions improve. However, New York courts have expressly refused to adopt this 'wait and see' theory of

damages.” (Sharma, 916 F2d at 826.) In addition, although the court does not adjust for changes in the value of the shares when calculating damages according to the date of breach measure, the parties themselves can protect against changes in value by hedging or acquiring shares in the market. As the Second Circuit further reasoned: “To be sure, uncertainties about the future and lack of perfect information may cause an asset to be under- or over-valued at any particular time. At that time, however, either party has an opportunity to hedge according to his or her judgment about the future stream of income.” (Sharma, 916 F2d at 826; see also Simon, 28 NY2d at 146 [where the seller breached a contract to deliver shares, reasoning that “[i]f plaintiff were anxious to own the shares rather than obtain their value, he was free to purchase them in the market. His cause of action should not and may not be converted into carrying a market ‘call’ or ‘warrant’ to acquire the stock on demand if the price rose above its value as reflected in his cause of action”].)

The court further holds that application of the date of breach measure of damages, without adjustments for fluctuations in the value of the assets, will serve the objective of putting UBS in the position it would have been in had the contract been performed. If the securitization had closed, UBS would have been entitled, under the express terms of the SWA, to novate to the Issuer its positions as protection seller on all of the eligible Knox CDSs. (SWA § 5 [B] [1].) As a result of the breach, UBS was forced to assume a substantial risk of loss under the CDSs that would have been novated to the Issuer had the closing occurred. As discussed above, the loss in market value of the retained CDSs as of the date of breach was determined using the mark-to-market methodology. More specifically, as confirmed by both UBS’s and Highland’s experts, the mark-to-market losses calculated as of the date of breach represent the cost to UBS to exit the CDSs—

that is, the payments to be made to third-parties so that they would take on, and UBS could extricate itself from, the risk. (Warren Testimony, Trial Tr. at 1304-1306; Dudney Testimony, Trial Tr. at 894-895.) A damage award for these mark-to-market losses will therefore compensate UBS for the exposure to risk that it would not have faced had the contract been performed.

To the extent that Highland contends that a damage award is not appropriate for these mark-to-market losses because the losses were not realized, the court rejects that contention. The damage award is appropriate, notwithstanding that the losses were not realized, because, as held above, the contract affords UBS the right of recovery for such losses. (See CDO Plus Master Fund Ltd. v Wachovia Bank, N.A., No. 07 Civ. 11078 [LTS], 2011 WL 4526132, * 2 [US Dist Ct SD NY, Sept. 29, 2011] [reasoning that, where the contractual definition of loss for the purpose of calculating damages did not require the CDS protection buyer to sustain “actual loss,” “[t]he absence of an actual loss on a Reference Obligation transaction, thus, is not a barrier to [the protection buyer’s] recovery. . .”] [emphasis in original].)

The court further holds that the record does not support Highland’s contention that UBS’s post-breach gains were realized because of the breach, and that this case therefore falls under the line of authority that requires an offset for such gains. Highland in effect contends that because UBS retained the CDSs as a result of the breach, it also realized the post-breach gains because of the breach.¹⁹ That conclusion does not follow. As held

¹⁹ In so holding, the court rejects UBS’s contention that it would have been entitled to retain the CDS assets, regardless of the Fund Counterparties’ breach, because the Agreements would have terminated in any event as of March 14, 2009, at which point UBS would have had the contractual right to retain the assets. (Ps.’s Post-Trial Memo., at 8.) This assertion is not only speculative but ignores that UBS did in fact acquire the right to retain the assets upon the Fund Counterparties’ breach of the Agreements as a result of their failure to meet the third collateral call. For the reasons discussed in the text, however, the court cannot accept Highland’s further contention that UBS realized gains on the retained CDSs because of the breach.

above, UBS had a contractual right to retain the CDSs upon the termination of the transaction based on the Fund Counterparties' breach of the SWA by failing to meet the collateral call. The SWA does not contain any provision that limited UBS's discretion as to when to dispose of the assets after termination. Rather, as UBS persuasively argues, the gains realized as a result of the post-breach disposition of assets were attributable not to the breach itself but to UBS's assumption of the risk of loss on the CDSs and its investment strategy as to when to dispose of them based on its assessment of the market. (See G & R Corp. v American Sec. Trust Co., 523 F2d 1164, 1175 [DC Cir 1975] [holding that while the transfer of property to the plaintiffs was caused by the defendant's breach, the profit realized by the plaintiffs from a post-breach sale was not "caused by the breach" but was "attributable to the [plaintiffs'] decision to hold [the property] until [its] condition and the market were favorable for sale".])

Nor does Highland successfully argue that the gains realized by UBS on the post-breach disposition of the assets must be offset under general principles which require a party who suffers damages as a result of another's breach to take reasonable steps to mitigate its damages. (See Ds.'s Post-Trial Memo., at 5-9.) Highland cites cases requiring mitigation in connection with the purchase and sale of securities and transactions in other markets. (See e.g. Drummond v Morgan Stanley & Co., Inc., No. 95 Civ. 2011 [DC], 1996 WL 631723, * 2-3 [US Dist Ct SD NY, Oct. 31, 1996] [holding that where the buyer breached a contract to purchase securities, the seller must take steps to mitigate its damages by selling the securities within "a reasonable period of time"]; Saboundjian v Bank Audi (USA), 157 AD2d 278, 284-285 [1st Dept 1990] [holding that where a broker failed to execute a customer's speculative currency exchange order, the customer was required to direct execution of the trade "within a reasonable time after he learned that it had not been effected earlier".].)

These cases are inapposite, as the SWA affords UBS the contractual right to retain the securities upon the Fund Counterparties' breach. Ironically, although purporting to rely on these cases, which in fact require that the non-breaching party mitigate within a reasonable period of time, Highland argues not that UBS was required to dispose of the CDSs within a reasonable period of time after the breach but that it was required to hold them for months and, indeed, years, until the market improved. Highland thus asserts that UBS reasonably mitigated by "holding (as opposed to fire selling) fully performing interest and premium-bearing assets in the face of a dysfunctional market. . .," and that "UBS's mitigation was not only reasonable, but required by law." (Ds.'s Post-Trial Memo., at 7.) Put another way, Highland does not identify a specific date or dates by which UBS was required to mitigate. To the contrary, without citation to any legal authority, Highland argues that UBS was required to hold the assets for an indefinite period, until the market improved, to minimize its losses.

The mitigation cases provide no support for Highland's assertion that UBS's disposition, months and years after the breach, of assets that it had a contractual right to retain, constitutes mitigation.²⁰ Rather, in claiming that it is entitled to "offsets" for the post-breach gains realized by UBS, Highland appears in effect to advance a measure of damages that is patently inconsistent with the fundamental tenet of the date of breach measure of damages—namely, that a non-breaching party's damages for assets with a determinable market value must be calculated

²⁰ Nor does Highland cite any other authority that supports its claim that it is entitled to offsets for post-breach gains realized by UBS. Cases in which a party has a duty to cover (see e.g. Fertico Belgium S.A. v Phosphate Chemicals Export Assn., Inc., 70 NY2d 76, supra) are inapposite, given UBS's contractual right to retain the CDSs upon the breach. Cases in which a party is on both sides of a securities transaction are factually dissimilar. (See Aristocrat Leisure Ltd. v Deutsche Bank Trust Co. Americas, 727 F Supp 2d 256, supra [where the plaintiff company breached a contract affording the defendant bondholders the right to convert their bonds to the company's stock, and the bondholders held open existing short positions in the company's stock on which they realized post-breach gains, the company was entitled to an offset]; see also Minpeco, S.A. v Conticommodity Servs., Inc., 676 F Supp 486, 490 [SD NY 1987] [holding that the plaintiff's losses on short futures positions on silver as a result of the defendants' manipulation of the market were required to be offset by the plaintiff's profits on physical silver positions also then held by the plaintiff].)

at the date of breach, not based on hindsight, and that neither party can select the date on which the damages calculation will be most favorable to it. Thus, a non-breaching buyer cannot select the date on which the assets “had their highest value or a period of time that was profitable but that excludes periods when losses occurred.” (See Sharma, 916 F2d at 826.) Similarly, a breaching buyer cannot avoid or reduce the damages caused by its breach by invoking post-breach decreases in the value of the assets. (See id.)

The court accordingly holds that Highland’s request for an offset for UBS’s post-breach gains from the disposition of the CDSs must be denied.

Offset for Right of First Refusal Counterclaim

Highland Capital Management, L.P. (Highland Capital) seeks judgment on its first counterclaim against plaintiff UBS Securities LLC for breach of the Cash Warehouse Agreement provision affording it the right to purchase CLO assets in the event UBS elected to retain such assets upon the termination of the Agreement. Section 5 (A) of the CWA provides that in event of failure to close, “UBS shall be authorized (but not required) to sell each Collateral Obligation then in the Warehouse Account in accordance with the Liquidation Procedures.” The Liquidation Procedures set forth in section 7 (A) of the CWA provide in pertinent part:

“If any Collateral Obligation is to be sold, UBS shall have the right to direct such sale on such terms and in such manner and at such time that it deems appropriate in its sole discretion. UBS may, in its sole discretion, elect to retain any such Collateral Obligation or to sell such Collateral Obligation to one of UBS’s Affiliates in which event, for purposes of determining Net Collateral Gain and Net Collateral Loss, such Collateral Obligation shall be deemed to have been liquidated at a price equal to its Market Value. To the extent that UBS in its sole discretion elects to retain such Collateral Obligation, the Servicer will have the right to purchase such Collateral Obligation at its Market Value.”

Section 7 (A) further provides that if UBS elects to sell CLOs upon termination, “the Servicer will have the right to bid for and purchase such Collateral Obligation at a purchase price equal to

the highest third party bid received by UBS for the purchase of such Collateral Obligation.”

It is undisputed that Highland Capital notified UBS that it sought to purchase six of the CLOs with a bid price of \$1.9 million and a notional value of \$44 million, but that it sought to provide the funds for the purchase, and to settle the trades, in the name of one of its affiliates, CLO Value Fund. (Ds.’s Findings, ¶ 21.) UBS declined to agree to the sale to the Highland Capital affiliate. (Id.; DX 72; PX 292.)

The court is unpersuaded that a Highland Capital affiliate had the right, under the CWA, to purchase the CLOs. Section 7 (A), which governs the disposition of the CLO assets upon termination, expressly affords one UBS Affiliate the right to purchase CLOs. In contrast, this Section affords the right to purchase only to the Servicer, and not to any other Highland entity. The Servicer is defined as Highland Capital Management, L.P. (CWA, First Paragraph.) Reading the CWA as a whole, the court further finds that no other provision modifies or is inconsistent with this limitation. On the contrary, where the acts of Highland Capital’s Affiliates were implicated, the CWA expressly referred to the Affiliates. (CWA, § 13 [B] [limiting the liability of the “Servicer” “for any acts or omissions by the Servicer or any Affiliate of the Servicer, or any of their directors, officers, members, agents, equity holders [and others] under or in connection with this Agreement, or for any decrease in the value of the Collateral Portfolio”].)²¹ The court accordingly holds that the CWA unambiguously provides that the right to purchase retained CLOs is limited, among the Highland entities, to Highland Capital.

In view of this holding that the CWA is not ambiguous with respect to Highland’s post-

²¹ The parties to the transaction knew how to afford rights to purchase assets to Affiliates of the Servicer. The SWA provides that if the closing fails to occur, UBS may, with the consent of the related counterparty, novate CDSs “to a third party or to the Servicer (or any Affiliate of the Servicer designated by the Servicer). . . .” (SWA § 6 [A].) The omission from the CWA of authorization to Affiliate(s) of the Servicer to purchase CLOs is therefore notable. Moreover, Highland Capital does not claim that the concerns—regulatory and other—that are implicated in novating CDSs are comparable to those in selling CLOs.

termination right to purchase CLOs, the court rejects Highland's contention that the court should consider evidence allegedly showing that UBS and Highland Capital had a prior course of conduct in which UBS permitted Highland Capital to settle trades "at its fund level." (Ds.'s Findings, ¶¶ 80-81.) Parol evidence of course of conduct is not admissible to construe an unambiguous contract. (See e.g. Sigismondi v Queens Transit Corp., 38 AD2d 71, 73 [2d Dept 1971], affd no opinion 32 NY2d 745 [1973]; Evans v Famous Music Corp., 1 NY3d 452, 459 [2004].)

The court further notes that even if Highland Capital could recover on its counterclaim, the damages it seeks are not recoverable. Highland Capital seeks a finding that because the CLOs continued to perform until maturity, "it would have profited \$46 million" if it had been permitted to exercise its right of first refusal to purchase the CLOs. (Ds.'s Findings, ¶ 82; DX Demo. 9.) As Highland Capital acknowledges, however, the market value of the CLOs at the time of breach was \$1,934,214. (DX Demo. 9.) The measure of damages, as explained above in connection with Highland Capital's claim for offsets against UBS's damages, is the market value of the assets as of the date of breach, not the increase in their value in the indefinite future.

Offset for Unjust Enrichment

Highland Capital also seeks judgment on its second counterclaim alleging that UBS was unjustly enriched by its failure to permit Highland Capital, through its affiliate CLO Value Fund, to purchase the Collateral Obligations upon termination. This claim for unjust enrichment is not maintainable as the right to purchase is governed by contract—the CWA. (See generally Pappas v Tzolis, 20 NY3d 228, 234 [2012], rearg denied 20 NY3d 1075 [2013]; Clark-Fitzpatrick, Inc. v Long Is. R.R. Co., 70 NY2d 382, 388-389 [1987].)

Offset for Settlements with Highland Affiliates

Highland also requests an offset for settlements with three Highland Affiliates—Highland Credit Strategies Master Fund, L.P. (Credit Strategies), Highland Crusader Offshore Partners, L.P. (Crusader Offshore), and Highland Crusader Holding Corporation (Crusader Holding) (collectively, the Settling Highland Affiliates). Credit Strategies and Crusader Offshore were defendants in this action. UBS asserted its fraudulent conveyance cause of action against them as well as all of the other defendants. (Second Am Compl., Fifth Cause of Action.) Crusader Holding was a defendant in a separate complaint, which asserted a fraudulent conveyance cause of action against it. (UBS Secs. LLC v Highland Crusader Holding Corp., Sup Ct, NY County, Index No. 652646/11, Compl., First Cause of Action; Ps.’s Letters, dated July 21, 2015 [NYSCEF Doc. No. 397]; Jan. 7, 2016 [NYSCEF Doc. No. 398].) This court bifurcated the trial of this action, directing that it would first hold a bench trial on the breach of contract claims, which were triable by the court and are the subject of this decision, and that the fraudulent conveyance and other claims, which are triable by a jury, would be heard subsequently. (May 1, 2018 Decision on the Record [NYSCEF Doc. No. 494].)

The parties dispute whether the confidential settlements (DX 76 id and DX 77 id) may be considered in this action. They also dispute whether the settlements may be offset, pursuant to statute or case law, against the damages awarded by this decision to UBS against the Fund Counterparties on the breach of contract causes of action. (See Ps.’s Post-Trial Memo., at 14-21; Ds.’s Post-Trial Memo., at 15-19, 21-24.)

Even assuming, without deciding, that the damages may be subject to offset by the settlements, the determination of whether or to what extent the offset should be allowed must await determination of the jury trial. Where an offset for a settlement is sought, “the damages against which the settlement is sought to be applied should be determined so a proper comparison can be made between them and the damages covered by the settlement.” (Carter v.

State of New York, 139 Misc 2d 423, 429 [Ct Cl, 1988], affd 154 AD2d 642 [2d Dept 1989];
accord Moller v North Shore Univ. Hosp., 12 F3d 13, 16 [2d Cir 1993] [applying New York
law].)

Here, Highland argues that the causes of action against the settling defendants are
“wholly derivative of its breach-of-contract claims against the Fund counterparties.” (Ds.’s Post-
Trial Memo., at 16.) UBS persuasively argues, in opposition, that the fraudulent conveyance
causes of action seek relief in addition to compensatory damages, including imposition of a
constructive trust and punitive damages. (Ps.’s Post-Trial Memo, at 22-24; Second Am. Compl.,
at 57-58.) Moreover, the damages, if any, that will be awarded against the Fund Counterparties
and Highland Capital on the fraudulent conveyance cause of action remain to be determined at
the jury trial. On this record the court accordingly cannot compare the settlements with the
fraudulent conveyance damages. Nor is there any basis for the court to determine the extent to
which the settlements cover the same damages, or damages that overlap with, the breach of
contract damages awarded to UBS against the Fund Counterparties by this decision. The
determination of the offset issue will therefore be deferred pending the jury trial. As it appears,
however, that Highland may be entitled to an offset for some or all of the settlement amounts, the
court will stay enforcement, to the extent of the settlement amount (\$70.5 million), of the
judgment to be awarded to UBS against the Fund Counterparties for the damages for breach of
contract.

Conclusion

UBS is entitled to damages for \$519,374,149 on the third and fourth causes of action
against the Fund Counterparties for breach of the Cash Warehouse and Synthetic Warehouse
Agreements. Enforcement of the judgment for this amount will be stayed up to \$70.5 million,
the amount of the settlements with the Settling Highland Affiliates.

ORDER

It is hereby ORDERED that the parties shall meet and confer with a view to reaching agreement on the form of the judgment, including but not limited to the Allocation Percentages of CDO Fund and SOHC, and the award of interest. If the parties are unable to reach such agreement, they shall promptly settle judgment; and it is further

ORDERED that this decision shall be filed under seal for ten business days from the date hereof to afford the parties the opportunity to confer and to advise the court as to whether there is any information in the decision which is claimed by any party to be confidential. The parties shall, within five business days of the date hereof, submit a joint letter of no more than three pages, advising the court of their positions on this issue. The letter should be accompanied by a joint copy of the decision, highlighting the portion(s) of the decision which each party claims is confidential and should be redacted in the decision that will be publicly filed; and it is further

ORDERED that the parties shall telephone the court on a conference call within five business days of the date hereof (at a specific date and time to be arranged with the Clerk of Part 60) to discuss the above confidentiality issue as well as the jury trial phase of this action. The parties should be prepared to address whether, or to what extent, the jury trial may proceed in light of Highland Capital's filing of a bankruptcy petition.²²

This constitutes the decision and order of the court.

Dated: New York, New York
November 14, 2019


MARCY FRIEDMAN, J.S.C.

²² By letter dated October 17, 2019 (NYSCEF Doc. No. 640), counsel (Reid Collins & Tsai LLP) for Highland Capital, the Fund Counterparties and other Highland defendants, advised the court of Highland Capital's bankruptcy filing, and represented that the automatic stay does not preclude decision of the causes of action against the Fund Counterparties or the counterclaim by Highland Capital. This letter sought to reserve defendants' position on the effect of the bankruptcy filing on subsequent proceedings in this action.

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

In Re: HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-sgj11
UBS Securities LLC, et al	§	
Appellant	§	
vs.	§	
Highland Capital Management, L.P.	§	3:20-CV-03408-G
Appellee	§	

[1273] Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # [1089](#)) Entered on 10/23/2020.

**APPELLANT RECORD
VOLUME 5**

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

-----X
In re: : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

INDEX

**APPELLANTS' AMENDED STATEMENT OF ISSUE AND
DESIGNATION OF RECORD ON APPEAL**

¹ The last four digits of the Debtor's taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Bankruptcy Court, Suite 700, Dallas, TX 75201.

Pursuant to instructions by the Clerk of Court (*see* Docket No. 1458), Appellants UBS Securities LLC and UBS AG, London Branch (together “UBS” or “Appellants”) submit this amended statement of issue and designation of record on appeal in connection with their appeal of the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* (Bankruptcy Case No. 19-34054-sgj11) [Docket No. 1273], dated October 22, 2020 and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020.

I. STATEMENT OF ISSUE TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court err as a matter of law by approving the Debtor’s claim compromise as fair, equitable, and in the best interest of the estate under Federal Rule of Bankruptcy Procedure 9019?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

- Vol. 1*
1. The Notice of Appeal:
- 000001* a. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1339);
- 000010* b. Amended Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1369).
2. The Judgment, Order, or Decree Appealed from:
- 000019* a. Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith (Dkt. 1273).
3. Any Opinion, Findings of Fact, and Conclusions of Law of the Bankruptcy Court:

To the extent included in or underlying the documents identified in part II.5 herein.

- 000021* 4. The Docket Sheet for Bankruptcy Case No. 19-34054-sgj11.

5. Documents listed below (as described in the Docket Sheet for Bankruptcy Case No.

19-34054-sgj11):

<i>Vol. 2</i>	Date Filed	Docket No.	Description/Docket Text
<i>000301</i>	12/4/2019	1	(2 pgs) Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
<i>000303</i>	12/27/2019	281	(100 pgs; 4 docs) Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) (Hayward, Melissa)
<i>000403</i>	1/9/2020	339	(5 pgs) Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document # 281) Entered on 1/9/2020. (Okafor, M.)
<i>000408</i>	3/2/2020	488	(18 pgs) Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # 421) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
<i>000426</i>	9/21/2020	1079	(61 pgs) Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)944 Chapter 11 plan). (Annable, Zachery)
<i>Vol. 3</i>	9/21/2020	1080	(155 pgs; 3 docs) Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)(Annable, Zachery)
<i>000487</i>	9/23/2020	1089	(26 pgs; 2 docs) Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A--Proposed Order) (Annable, Zachery)
<i>000642</i>	10/15/2020	1173	(11 pgs; 2 docs) Notice (Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1080 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)). (Attachments: # 1 Exhibit C/D to
<i>000668</i>			

Date Filed	Docket No.	Description/Docket Text
		Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/16/2020	1191	(8 pgs) Response opposed to (related document(s): 1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/19/2020	1220	(11 pgs) Reply to (related document(s): 1190 Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/28/2020	1303	(2 pgs) Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 & #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)
10/30/2020	1315	(3 pgs) Order directing UBS' Offer of Proof (RE: related document(s)1089 Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.) ²
6/8/2020	719	SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
6/8/2020	720	SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)

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² This designation includes the underlying documents that UBS submitted to the Bankruptcy Court in hard copy pursuant to this ruling.

	<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
Vol. 4 000823	6/8/2020	721	SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
000824 Thru Vol. 5	8/7/2020	933	(431 pgs; 23 docs) Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page - to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page - to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page - to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page - to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page - to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page - to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page - to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page - to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page - to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page - to be filed under seal upon order from Court)) (Platt, Mark)
Vol. 6 001255	8/26/2020	996	(34 pgs) Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund - Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) (sealed exhibits)
001289	9/23/2020	1090	(94 pgs; 7 docs) Declaration re: (Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) (Annable, Zachery)
001383	10/5/2020	1127	SEALED document regarding: Exhibit B--Cornerstone Monetization Schedule per court order filed by Debtor

Date Filed	Docket No.	Description/Docket Text
		Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1128	SEALED document regarding: Exhibit 2 - Partial Final Award dated March 6, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.).
10/5/2020	1129	SEALED document regarding: Exhibit 3--Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1130	SEALED document regarding: Exhibit 4--Final Award dated April 29, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/16/2020	1190	(42 pgs; 2 docs) Objection to (related document(s): 1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # 1 A-C) (Sosland, Martin)
10/16/2020	1192	(36 pgs; 3 docs) Declaration re: W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)1190 Objection). (Attachments: # 1 Exhibit 1-6 # 2 Attachments A-C) (Sosland, Martin)
7/10/2020	817	Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 812 Hearing held on 7/8/2020. (RE: related document(s)737 Motion to extend or limit the exclusivity period (RE: related document(s)668 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M.

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Date Filed	Docket No.	Description/Docket Text
		Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.), 813 Hearing held on 7/8/2020. (RE: related document(s)747 Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)459 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
8/26/2020	998	Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s)771 Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)

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<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
10/23/2020	1271	Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1256 Hearing held on 10/20/2020. (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), 1257 Hearing held on 10/20/2020. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)

Respectfully submitted,

DATED this 25th day of November 2020.

LATHAM & WATKINS LLP

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Appellants' Amended Statement of Issue and Designation of Record on Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 25, 2020.

/s/ Martin Sosland

EXHIBIT 5

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 60

-----X

UBS SECURITIES LLC and UBS AG, LONDON BRANCH,

INDEX NO.

650097/2009

Plaintiff,

- v -

HIGHLAND CAPITAL MANAGEMENT, L.P., HIGHLAND
SPECIAL OPPORTUNITIES HOLDING COMPANY,
HIGHLAND CDO OPPORTUNITY MASTER FUND, L.P.,
HIGHLAND FINANCIAL PARTNERS, L.P., HIGHLAND
CREDIT STRATEGIES MASTER FUND, L.P., HIGHLAND
CRUSADER OFFSHORE PARTNERS, L.P., HIGHLAND
CREDIT OPPORTUNITIES CDO, L.P., STRAND ADVISORS,
INC.,

**DECISION AND ORDER AFTER
TRIAL**

Defendant.

-----X

This action arises out of a failed restructured transaction between plaintiffs UBS Securities LLC and UBS AG, London Branch (collectively, UBS) and defendants Highland CDO Opportunity Master Fund, L.P. (CDO Fund) and Highland Special Opportunities Holding Company (SOHC) (together, the Fund Counterparties), and defendant Highland Capital Management, L.P. (Highland Capital) (together with the Fund Counterparties, Highland), for the securitization of collateralized loan obligations (CLOs) and credit default swaps (CDSs).

The court conducted a bench trial from July 9 through July 27, 2018 on plaintiffs' third and fourth causes of action in the second amended complaint for breach of contract, and on defendant Highland Capital's first and second counterclaims against plaintiff UBS Securities

LLC for breach of contract and unjust enrichment, respectively.¹ Based on the credible evidence at trial, the court now makes the following determination as to the breach of contract causes of action and counterclaims.²

In April and May 2007, the parties agreed to pursue a collateralized debt obligations transaction governed by an Engagement Letter, a Synthetic Warehouse Agreement for CDSs, and a Warehouse Agreement for CLOs (Original Agreements). (DX 4, DX 5, DX 6.)³ It is undisputed that UBS acted as the “financial arranger” for the transaction and was responsible for financing the acquisition of assets, which would then be held in portfolios, which the parties refer to as the Cash Warehouse and the Synthetic Warehouse or collectively as the Knox Warehouse. (Ps.’s Findings, ¶ 4; Ds.’s Findings, ¶ 5.)⁴ Highland Capital acted as the “Servicer” and was responsible for identifying the specific CLOs to be securitized and the Reference Obligations for the CDSs to be securitized. (Ps.’s Findings, ¶¶ 3, 4; Ds.’s Findings, ¶¶ 6, 8.)

In furtherance of the transaction, UBS acquired assets with a notional value of \$818 million. (Ps.’s Findings, ¶ 6; Ds.’s Findings, ¶ 5.) There were 33 CLO tranches in the Cash Warehouse, with a notional value of \$174 million. UBS paid \$170 or \$170.5 million to acquire the CLOs because the bonds were purchased at a slight discount on their par value. (Ds.’s Findings, ¶ 6; Ps.’s Findings, ¶ 6.) The Synthetic Warehouse contained 87 credit default swaps,

¹ By decision on the record on May 1, 2018 (NYSCEF Doc. No. 494), the court bifurcated the trial. The decision held that the breach of contract claims, which were to be heard by the court, would be determined prior to claims, including fraudulent conveyance claims, which were to be heard by a jury.

² At the trial, the parties agreed to the submission of extensive evidence, subject to standing objections. This decision is not based on such evidence, unless the decision expressly states otherwise.

³ Defendants’ and plaintiffs’ trial exhibits will be referred to as DX _ and PX _, respectively. The parties’ demonstrative exhibits will be referred to as DX Demo. _ and PX Demo. _

⁴ The Fund Counterparties’ and Highland Capital Management, L.P.’s Proposed Findings of Fact and Conclusions of Law will be referred to as Ds.’s Findings. Plaintiffs’ Proposed Findings of Fact and Conclusions of Law will be referred to as Ps.’s Findings. Defendants’ Findings are all identified by paragraph number. Plaintiffs’ Findings of Fact are identified by paragraph number, while their Findings of Law are identified only by page number.

with a notional value of \$644 million. (Ds.'s Findings, ¶ 7; Ps.'s Findings, ¶ 6.) UBS served as the protection seller on all of the CDSs. (Ps.'s Findings, ¶ 4; Ds.'s Findings, ¶ 8.) For five of the CDSs, with a notional value of \$45 million, Lehman Brothers Special Financing, Inc. (Lehman) acted as the protection buyer (Lehman Swaps). (Ps.'s Findings, ¶ 8; Ds.'s Findings, ¶ 9; PX 755⁵, at 1.) For 20 of the CDSs, with a notional value of \$124 million, UBS acted as both protection seller and protection buyer (the Internal Swaps). (Ds.'s Findings, ¶ 10; Ps.'s Findings, ¶ 9; PX 755, at 4-5.)

The Original Agreements expired by their terms on August 15, 2007. (PX 1, at 1.) The parties agreed to restructure the transaction, signing a new Engagement Letter, the 2008 Cash Warehouse Agreement (CWA), and the 2008 Synthetic Warehouse Agreement (SWA), as of March 14, 2008. (See PX 1, PX 2, PX 3.) As of March 14, 2008, the Knox assets had lost significant value and the parties agreed that, given the market conditions existing as of the date of the restructured transaction, it was not then feasible to sell the securities and close the transaction. (Ps.'s Findings, ¶ 20; 2008 Engagement Letter [PX 1, at 8].)

As discussed further below, the Synthetic Warehouse Agreement provided for the roll-over of the Existing Credit Default Swaps and the Existing Collateral Portfolio into the warehouses created under the 2008 restructured transaction. (See SWA, Whereas Clause 5.) Section 12 of the Synthetic Warehouse Agreement provided that the Fund Counterparties would transfer additional cash and securities "to secure its obligations to UBS" under the SWA and the CWA. In particular, this Section required the Fund Counterparties to make an Initial Deposit of \$20 million in cash and approximately \$54 million in Eligible Securities on the date of the

⁵ PX 755 is a document that that was jointly prepared by plaintiffs' and defendants' counsel so that specific information regarding the Knox Warehouse assets could be found in one place. (Trial Tr. at 858.)

execution of the SWA. (Id., § 12 [A].) The SWA contained a collateral call provision under which UBS was required to track its CDS and Cash Exposure to losses, as defined under the Agreement, on a semi-monthly basis, and the Fund Counterparties were required to deposit an additional \$10 million in collateral (cash and/or Eligible Securities) for every \$100 million increase in the defined Deposit Threshold Exposure Amount. (Id., §§ 12 [B], [C].)

It is undisputed that, pursuant to Section 12 (C) of the SWA, UBS made a first collateral call for \$10 million on September 17, 2008 (PX 4), and a second collateral call for \$10 million on October 21, 2008 (PX 5), both of which were satisfied by the Fund Counterparties. (Testimony of Keith Grimaldi, Former Head of UBS's CDO Secondary Trading Desk, Trial Transcript (Tr.) at 81, 112, 119.)

On November 7, 2008, UBS issued the third, and final, collateral call to the Fund Counterparties for an additional \$10 million. (PX 6.) It is undisputed that the Fund Counterparties did not meet this collateral call. (Ds.'s Findings, ¶ 17; Ps.'s Findings, ¶¶ 43-47).⁶

On December 3, 2008, UBS sent a notice to Highland stating that, to date, no deposits have been made in response to the November collateral call, and that "a Termination Date has occurred under the Warehouse Agreements and a termination date has occurred under the Engagement Letter." (PX 7; PX 9.) The notice further stated that "UBS is forbearing from exercising its remedies [under the Agreements] for a period of two Business Days from the date hereof in order to permit [the Fund Counterparties] to pay the Additional Deposits by 5 pm New York time on December 5, 2008." (Id.) On December 5, 2008, UBS sent an additional notice to

⁶ It is undisputed that the Fund Counterparties offered to post CLO assets to satisfy the third collateral call and that UBS did not accept that collateral. UBS's Keith Grimaldi testified that UBS rejected the CLOs because "at that time the marketplace was declining and declining rapidly. We thought there would be more declines, so we collectively made a decision that we wanted cash or government securities ... that would be easily liquid and reflect better value." (Trial Tr. at 122.) Defendants stipulated that UBS had the right to insist on cash. (See Statement of Andrew Cruciani [Ds.'s Atty.], Trial Tr. at 1736.)

Highland stating that the Additional Deposit has not been made, and that “[c]onsequently, UBS will proceed to exercise the rights and remedies available to it under the Warehouse Agreements, the Engagement Letter, at law and otherwise.” (PX 8.)

THIRD COLLATERAL CALL

As a threshold matter, the parties dispute whether the third collateral call was proper. Highland argues that UBS should not have included the 20 Internal Swaps in calculating the Deposit Threshold Exposure Amount “because the Intradesk [i.e., Internal] Swaps were not Existing Credit Default Swaps under the SWA . . .” (Ds.’s Findings, ¶ 28.) Highland also claims that the Lehman Swaps were not properly included in the calculation because they had been terminated prior to the third collateral call. (See id., ¶ 27.)

More particularly, Highland claims that the Internal Swaps were not Existing Credit Default Swaps because they were not documented, as allegedly required by Section 3 of the SWA, in the form of an ISDA Master Agreement and ISDA Confirmation. (Ds.’s Findings, ¶¶ 28, 30-31.) UBS does not dispute that the Internal Swaps were not documented by the ISDA Master Agreement and Confirmation, but argues that Section 3 does not require such documentation for the Internal Swaps. (Ps.’s Findings, at 24-25.)⁷

Resolution of this dispute involves an issue of contract interpretation. It is well settled that the determination of whether a contract is ambiguous is one of law to be resolved by the court. (Matter of Wallace v 600 Partners Co., 86 NY2d 543, 548 [1995]; W.W.W. Assocs., Inc. v Giancontieri, 77 NY2d 157, 162 [1990].) Written agreements are to be construed in accordance with the parties’ intent, and “the best evidence of what parties to a written agreement

⁷ It is undisputed that the Internal Swaps were documented by electronic trading tickets but not by ISDA Master Agreements or ISDA trade confirmations. (Ds.’s Findings, ¶ 10; Ps.’s Findings, ¶¶ 16-17; PX 29 [electronic trading tickets].)

intend is what they say in their writing.” (Schron v Troutman Sanders LLP, 20 NY3d 430, 436 [2013] [internal quotation marks, brackets, and citation omitted].) The court should determine from contractual language, without regard to extrinsic evidence, whether there is any ambiguity. (Chimart Assocs. v Paul, 66 NY2d 570, 573 [1986].) Extrinsic or parol evidence “may not be considered when the intent of the parties can be gleaned from the face of the instrument.” (Id. at 572-573.) “Extrinsic evidence of the parties’ intent may be considered only if the agreement is ambiguous. . . .” (Greenfield v Philles Records, Inc., 98 NY2d 562, 569 [2002].) “Ambiguity in a contract arises when the contract, read as a whole, fails to disclose its purpose and the parties’ intent, or where its terms are subject to more than one reasonable interpretation.” (Universal Am. Corp. v National Union Fire Ins. Co. of Pittsburgh, Pa., 25 NY3d 675, 680 [2015] [internal quotation marks and citation omitted].)

It is also well settled that a court should “construe the [contract] so as to give full meaning and effect to the material provisions. A reading of the contract should not render any portion meaningless. Further, a contract should be read as a whole, and every part will be interpreted with reference to the whole; and if possible it will be so interpreted as to give effect to its general purpose.” (Beal Sav. Bank v Sommer, 8 NY3d 318, 324-25 [2007] [internal quotation marks and citations omitted]; National Conversion Corp. v Cedar Bldg. Corp., 23 NY2d 621, 625 [1969] [holding that “[a]ll parts of an agreement are to be reconciled, if possible, in order to avoid inconsistency”].)

Applying these precepts, the court holds that the SWA is not ambiguous with respect to the requirements for documentation of CDSs, that Section 3 of the SWA only applies to CDSs in which a third party is the protection buyer, and that this Section does not require ISDA documentation for the Internal Swaps.

The SWA defines “Existing Credit Default Swap[s]” as the CDSs “that were the subject of the Original Synthetic Warehouse Agreement.” (SWA, Whereas Clause 5.) Section 3 of the SWA provides, in pertinent part:

“Form of Documentation. Each Existing Credit Default Swap between UBS, acting as Seller, and a counterparty, acting as Buyer, has been documented in the form of (i) the ISDA Master Agreement and Schedule currently in effect between UBS and the related counterparty, which documents are confidential between UBS and such counterparty and (ii) an ISDA published confirmation. . . . Each Additional Credit Default Swap between UBS, acting as Seller, and a counterparty, acting as Buyer, will be documented in the form of (i) the ISDA Master Agreement and Schedule currently in effect between UBS and the related counterparty, which documents are confidential between UBS and such counterparty and (ii) the Confirmation attached [to the SWA]”

As the Agreement that governs the securitization of Existing and Additional Credit Default Swaps, the SWA contains numerous detailed provisions regarding the accumulation and disposition of these financial instruments. Section 3, which pertains to documentation of the swaps, is the only provision in the SWA that is limited to CDSs in which UBS is the Seller and a counterparty is the Buyer. All of the other provisions of the SWA refer to CDSs without such limitation.

Moreover, like SWA Section 3, the Original SWA provided: “Each Credit Default Swap between UBS, acting as Seller, and a counterparty, acting as Buyer, will be documented in the form of (i) the ISDA Master Agreement and Schedule currently in effect between UBS and the counterparty, which documents are confidential between UBS and each counterparty and (ii) the Confirmation attached hereto. . . .” (Original SWA, § 3 [NYSCEF Doc. No. 626].) It is undisputed, however, that the Internal Swaps were included in the Original SWA portfolio but were not documented by the ISDA Master Agreement or Confirmation. It is also undisputed that the Internal Swaps were nevertheless again included in the Initial Net Exposure Amount in the SWA for the restructured transaction. (Testimony of Peter Vinella [Highland’s expert in

structured financial products], Trial Tr. at 1097, 1124-1125 [acknowledging that the Internal Swaps were included in the Initial Net Exposure Amount].)

Initial Net Exposure Amount is defined in the SWA⁸ as “111,767,486.88, being the amount by which the Aggregate Net Exposure Amount as of the date hereof [i.e., the March 14, 2008 “as of” date of the SWA] exceeds the Initial Deposit.” As defined in SWA Section 12 (A), the Initial Deposit is the deposit of approximately \$74,000,000 in cash and Eligible Securities made on the date of execution of the SWA. Aggregate Net Exposure Amount is defined as the amount by which CDS Exposure and Cash Exposure, as of the date of the collateral calculation, exceed the balance on deposit in the Deposit Account plus Positive Carry with respect to each Collateral Obligation.⁹ As discussed above, Section 12 (C) of the SWA requires a deposit of \$10 million in additional collateral when the Deposit Threshold Exposure Amount is greater than or equal to \$100 million. The Deposit Threshold Exposure Amount is defined in the SWA as “the amount, if any, by which (i) the Aggregate Net Exposure Amount as of [the date of the collateral calculation] exceeds (ii) the Initial Net Exposure Amount.” The Initial Net Exposure Amount, which includes the Internal Swaps, is thus integral to the calculation of the Deposit Threshold Exposure Amount.

Based on this reading of the SWA as a whole, the court concludes that the Internal Swaps were Existing Credit Default Swaps within the meaning of the SWA. The lack of ISDA documentation was therefore not a bar to their inclusion in the collateral call calculation.

The court rejects Highland’s further contention that the Internal Swaps should not have been included because there was “no economic consequence” to UBS from these swaps. (Ds.’s

⁸ Definitions are found in the Definitions section of the SWA (SWA, Ex. A), unless the term is defined in a particular provision of the SWA, in which case the provision will be cited.

⁹ Positive Carry is defined in the CWA. As explained by Adam Warren, Highland’s damages expert, carry includes interest payments from the CLOs. (Warren Testimony, Trial Tr. at 1299.)

Findings, ¶ 33.) The complex formula set forth in Section 12 for calculating the exposure of UBS on the assets in the warehouse that would trigger a collateral call does not contain any requirement that UBS include in the calculation only assets for which it was at risk of sustaining actual losses.¹⁰

The court further holds that, although the Internal Swaps were properly included in the third collateral call calculation, the Lehman Swaps were not. The parties do not dispute that the Lehman Swaps had been terminated based on the Event of Default that occurred upon Lehman's filing for bankruptcy on September 15, 2008. (DX 87 [UBS Default Notice].) Highland asserts, and UBS does not persuasively counter, that the Lehman Swaps should not have been included in the third collateral call. Indeed, UBS's Grimaldi forthrightly acknowledged that, given the termination, there should not have been "markdowns" on the Lehman Swaps. (Grimaldi Testimony, Trial Tr. at 297-298.)

Highland contends, based on the inclusion of the Lehman Swaps and Internal Swaps in the third collateral call calculation, that UBS "committed a prior material breach by failing to

¹⁰ In view of this holding that the Internal Swaps were properly included in the collateral call calculation pursuant to the unambiguous terms of the SWA, the court has not considered parol evidence on the issue.

The court thus rejects Highland's request for a finding that UBS admitted that the SWA required ISDA documentation of the Internal Swaps. (See Ds.'s Findings, ¶¶ 30-31.) This request is based on testimony of UBS's Keith Grimaldi who, when shown Section 3 during cross-examination and asked if every CDS was required to have ISDA documentation, responded: "According to the language, yes." (Grimaldi Testimony, Trial Tr. at 262-264.) Even if this evidence were properly considered, Highland's reliance on this answer ignores that Mr. Grimaldi further testified that ISDA documentation would not be "filled out" until the assets were transferred in the securitization. (*Id.* at 267-270.)

The court further notes that Highland requests a finding, arguably in support of its claim that the CDSs were not Existing Credit Default Swaps, that a CDS "cannot be created with the same legal entity on both sides of the transaction. . . ." (Ds.'s Findings, ¶ 29.) Even if parol evidence were properly considered, there was substantial evidence in the record that internal swaps were common in securitizations of synthetic assets. (LeRoux Testimony, Trial Tr. at 1673-1676; (Vinella Testimony, Trial Tr. at 1158-1162 [denying that intracompany swaps are "economic transactions" but acknowledging their use in CLO securitizations].)

properly calculate the collateral call[.]” (Ds.’s Findings, ¶¶ 23, 27-28.) In support of this contention, Highland relies on the testimony of its expert Peter Vinella. According to Mr. Vinella’s own analysis, however, if the Lehman swaps are excluded from the calculation for the third collateral call, but the Internal Swaps are included, the total increase in the Deposit Threshold Exposure Amount as of November 4, 2008 is \$328.62 million—an amount greater than the \$300 million required to authorize the third collateral call pursuant to Section 12 of the SWA. (Vinella Testimony, Trial Tr. at 1122-1139; DX Demo. 8.) Louis Dudney, UBS’s expert in forensic accounting and damages (Trial Tr. at 824), analyzed Mr. Vinella’s testimony and confirmed, using the same numbers as Mr. Vinella, that the Deposit Threshold Exposure Amount still exceeded \$300 million on November 4, 2008, after excluding the Lehman Swaps but including the Internal Swaps. (PX Demo. 20 [accepted without objection in lieu of Dudney rebuttal testimony, Trial Tr. at 1870-1871].)

Based on this credible testimony that the threshold for the collateral call was met without the Lehman Swaps, the court holds that the third collateral call did not constitute a material breach of the contract, notwithstanding UBS’s improper inclusion of the Lehman Swaps in the calculation.¹¹ (See generally Awards.Com v Kinko’s, Inc., 42 AD3d 178, 187 [1st Dept 2007], affd 14 NY3d 791, 793 [2010]; Frank Felix Assocs., Ltd. v Austin Drugs, Inc., 111 F3d 284, 289 [2d Cir 1997] [under New York law, for a breach to be material, “it must go to the root of the agreement between the parties”] [internal quotation marks and citations omitted].)

¹¹ In view of this holding that the Deposit Threshold Exposure Amount exceeded \$300 million as of November 7, 2008, the court need not reach UBS’s contention that the collateral call was proper because the Deposit Threshold Exposure Amount exceeded \$300 million as of December 2, 2008, prior to the termination of the transaction. (Ps.’s Findings, at 15 n 10.)

As discussed above, there is no dispute that the Fund Counterparties failed to meet the third collateral call. The court accordingly finds that the Fund Counterparties breached the SWA and turns to the issue of damages.

DAMAGES

Designation of Ineligible Securities

A critical issue in determining UBS's damages is whether UBS may recover damages for CDSs that UBS retained after its termination of the 2008 transaction, under these circumstances in which UBS did not designate the underlying reference obligations for any of the CDSs as "Ineligible Securities." Resolution of this issue requires interpretation of the SWA. Highland and UBS both contend that the SWA is unambiguous as to whether Ineligible Securities must be designated, but assert fundamentally inconsistent readings of the Agreement. (Ds.'s Findings, ¶¶ 44-49; see Ps.'s Findings, at 29 n 21.)

As held above, the determination of whether a contract is ambiguous is one of law to be resolved by the court. (Matter of Wallace, 86 NY2d at 548.) Ambiguity will be found to arise where the terms of a contract are "subject to more than one reasonable interpretation." (Universal Am. Corp., 25 NY3d at 680 [internal quotation marks and citation omitted].) As also held above, a court should construe a contract so as to give full meaning and effect to its material provisions, and should read the contract as a whole and so as not to render any portion meaningless, if possible. (See Beal Sav. Bank, 8 NY3d at 324-25.)

Sections 5 (A), 5 (B), and 6 of the SWA are relevant to the calculation of CDS damages: Section 5 (A) provides for the calculation of losses with respect to CDSs removed from the warehouse during the term of the Agreement or "otherwise pursuant to Section 6"; Section 5 (B) (2) governs the calculation of losses upon a closing; and Section 6 governs this calculation in the event of a failure to close, incorporating terms from Sections 5 (A) and 5 (B).

Section 6 provides in pertinent part:

- “(A) If the Closing Date fails to occur on or prior to the Termination Date, then UBS may, with the consent of the related counterparty, either (at the election of the Servicer; provided that notice of such election is received on or prior to the Termination Date) (i) terminate each Credit Default Swap or (ii) novate each Credit Default Swap to a third party or to the Servicer (or any Affiliate of the Servicer designated by the Servicer), in each case, on the Termination Date.

- (C) To the extent there are any CDS Losses, the CDO Fund and SOHC shall collectively be responsible for 100% of any such CDS Losses. Such CDS Losses shall be allocated between the CDO Fund and SOHC on the basis of their respective Allocation Percentages. Each of the CDO Fund and SOHC shall, after notice of the amount due from UBS, remit such amounts by wire transfer in immediately available funds to UBS within three Business Days after the Termination Date.”

CDS Losses are in turn defined in Section 5 (B) (2), the closing

provision, as:

“(x) the sum of (1) the aggregate Floating Amount payments and Physical Settlement Amount payments made by UBS with respect to all of the Credit Default Swaps as to which a Floating Amount Event or a Credit Event occurred under the terms thereof, plus (2) the aggregate amount of Net Hedging Payments made by UBS with respect to all Hedging Transactions related to the Credit Default Swaps, plus (3) the aggregate Replacement Losses determined with respect to all of the Credit Default Swaps and the related Hedging Transactions that were terminated or novated or as to which the exposure was retained by UBS, in each case upon the designation of the Reference Obligation relating to such Credit Default Swap as an Ineligible Security (such amount in this clause (x), the ‘CDS Losses’)”

Relying on the requirement in the definition of CDS Losses that Reference Obligations be designated as Ineligible Securities, Highland argues that “[t]he term ‘CDS Losses’

unambiguously limits UBS's recovery for unrealized (mark-to-market) losses to securities designated as 'Ineligible Securities,' and the Court is bound to enforce the agreement pursuant to its unambiguous terms." (Ds.'s Findings, ¶ 46.) Put another way, Highland argues that UBS may recover mark-to-market losses only on CDSs that have been designated Ineligible Securities. (*Id.*, ¶ 53.)¹² UBS asserts, among other things, that under Section 6, UBS may terminate, novate, or retain CDSs regardless of eligibility, that ineligibility designations are not relevant absent a closing, and that Highland's reading renders meaningless other provisions of the SWA. (Ps.'s Findings, at 29 n 21.)

Upon close reading of the SWA, the court concludes that the SWA is not ambiguous with respect to ineligibility designations and that, under Section 6, upon the failure to close UBS is entitled to retain CDSs and to recover losses for the retained CDSs, without first designating the underlying Reference Obligations as Ineligible Securities. Section 6 (A) expressly provides for UBS to terminate or novate the CDSs, and does not require UBS to first make such designation. Although Section 6 (A) does not also, by its terms, provide for UBS to retain CDSs, a reading of the contract as a whole leaves no question that UBS was not only entitled to retain the CDSs upon the failure to close, but also that it was entitled to recover losses on the retained CDSs without first designating the underlying Reference Obligations as Ineligible.¹³

¹² Highland's damages expert, Adam Warren, testified that realized losses are losses sustained where a transaction has been closed out and an actual cash payment has been made. (Warren Testimony, Trial Tr. at 1249, 1253.) He also testified that, in his opinion, there were no unrealized losses in the Synthetic Warehouse because no assets had been designated as ineligible. (*Id.* at 1257 ["[O]ur computation is that there are no unrealized losses in the Synthetic Warehouse because of the need to . . . create a designation of ineligible. And we saw no evidence of any Synthetic Warehouse asset being designated ineligible".])

¹³ In its decision of defendants' motion for summary judgment, this court held that it could not determine on the record of that motion whether the SWA was ambiguous with respect to UBS's entitlement to recover losses on retained CDSs, pursuant to Section 6, without a prior designation of such assets as Ineligible Securities. (2017 NY Slip Op. 30546[U], 2017 WL 1103879, * 4-7 [Sup Ct, NY County Mar. 13 2017], aff'd 159 AD3d 512, lv dismissed 32 NY3d 1080.) With the benefit of the parties' extensive trial briefing on this issue, the court now concludes, for the reasons discussed further in the text, that the agreement is not ambiguous.

As the above-quoted definition of CDS Losses in Section 5 (B) (2) shows, this definition relates to Credit Default Swaps which, upon a closing, have been “terminated or novated or as to which the exposure was retained by UBS, in each case upon the designation of the Reference Obligation relating to such Credit Default Swap as an Ineligible Security” After setting forth the definition of CDS Losses (and CDS Gains) in the context of a closing, Section 5 (B) (2) further provides: “To the extent the Closing Date fails to occur, allocation of CDS Losses, CDS Gains and any other amounts payable hereunder will be determined in accordance with the provisions of Section 6 hereof.”

Significantly, while Section 6 (C) incorporates the defined term CDS Losses, the term CDS Losses also incorporates both the definition of Ineligible Security and the term Replacement Losses from Section 5 (A). These incorporated terms modify the definition of CDS Losses where a closing does not occur.

The definition of Ineligible Security pertains to securities that are ineligible for securitization upon a closing. The SWA thus defines Ineligible Security, in pertinent part, as “any Reference Obligation in the CDS Portfolio which has become ineligible for sale to the Issuer on the Closing Date as a result of the failure of such Reference Obligation to conform to the Eligibility Criteria as it exists at such time of determination” (SWA, Exhibit A-2 [emphasis added].)

Section 5 (A), which defines the term Replacement Losses, distinguishes between such Losses sustained during the term of the Agreement and those sustained upon termination in the event of a failure to close pursuant to Section 6. Section 5 (A) primarily addresses the removal of CDSs from the warehouse “during the term of this [the SWA] Agreement” where “a Reference Obligation or the related Credit Default Swap does not conform to the Eligibility Criteria” that must be met for securitization. This section provides that “UBS shall be entitled in

good faith to designate any Reference Obligation (and the related Credit Default Swap) as an Ineligible Security and (ii) in its sole discretion to remove any such Reference Obligation (and the related Credit Default Swap) from the CDS Portfolio.” Section 5 (A), however, continues:

“To the extent any such Credit Default Swaps are terminated or novated, or at UBS’s discretion, such exposure is retained following the designation of such Reference Obligations as Ineligible Securities or otherwise pursuant to Section 6, UBS shall determine the Replacement Gain or Replacement Loss relating to such Credit Default Swaps [according to the formula that follows].”

(emphasis added). Section 5 (A) then sets forth a formula for calculating Replacement Gain and Replacement Loss, which specifically provides for such calculation not only upon termination or novation but also upon UBS’s retention of the CDSs. (SWA § 5 [A] [1] – [3].)

Section 5 (A) thus clearly contemplates that UBS may novate, terminate, or retain CDSs both during the term of the Agreement and in the event of a failure to close. The Section affords UBS the discretion to terminate, novate, or retain CDSs “pursuant to Section 6,” as distinct from its discretion to do so upon a designation of the underlying Reference Obligation as Ineligible during the term of the Agreement. Any other reading would render meaningless the Section 5 (A) provision “or otherwise pursuant to Section 6.”

Moreover, in order to reconcile all of the provisions of the SWA, the Section 5 (B) (2) definition of CDS Losses, when used in Section 6, cannot be construed as requiring a designation of Ineligible Securities. As discussed above, Ineligible Securities are defined as securities ineligible for sale at a closing. Section 5 (B) (2), which governs the calculation of losses where a closing will occur, requires the designation of Ineligible Securities to facilitate the parties’ calculation of losses on assets deemed ineligible for inclusion in the securitization that will occur upon the closing. When a closing will not occur, none of the CDSs or other assets will be securitized, and there is no need to distinguish between eligible and ineligible assets. While the

definition of CDS Losses with the Ineligible Security designation requirement serves the purposes of Section 5 (B) (2) in the event of a closing, it is inconsistent with the CDS Loss calculation required in Section 6 where the closing does not occur.

Contrary to Highland's apparent contention (Ds.'s Findings, ¶ 46), a reading of the CDS Loss provision in Section 6 to permit calculation of losses on retained assets without an Ineligible Security designation does not violate the fundamental precept that a defined term in a contract must be given effect. (See generally Mionis v Bank Julius Baer & Co., 301 AD2d 104, 109 [1st Dept 2002].) Rather, the CDS Loss definition, as used in Section 6, is modified by the contractual provisions discussed above.

Although inartfully drafted, the SWA is not ambiguous. If the contract is read as a whole, and all of the provisions are given meaning, it is reasonably susceptible to only one meaning—namely, that CDS Losses for retained assets may be recovered without a designation of the underlying Reference Obligations as Ineligible Securities where, as here, the contract has been terminated before the closing.¹⁴ The court accordingly holds that UBS is entitled to recover damages for the retained CDSs in the Synthetic Warehouse.¹⁵

Calculation of Damages

As discussed above, UBS terminated the transaction based on the Fund Counterparties'

¹⁴ The court notes that the SWA and the Cash Warehouse Agreement (CWA) both contain provisions which state that the two agreements "set forth the entire understanding of the parties hereto relating to the subject matter hereof . . ." (SWA, § 18; CWA, § 18.) Assuming, without deciding, that these agreements should be read together in construing the SWA, the court finds that, although the assets at issue in the SWA and the CWA have markedly different attributes, the CWA is consistent with the SWA to the extent that the CWA permits UBS, in the event a closing does not occur, to retain and recover for losses on the CLOs that are the subject of the CWA, without a designation of the CLOs as Ineligible Securities. (See CWA, §§ 5 [A], 7 [A].)

¹⁵ In view of this holding that the SWA is not ambiguous as to whether CDS losses may be recovered without designation of the underlying Reference Obligations as Ineligible Securities, the court has not considered any parol evidence, either documentary or testimonial, in construing the SWA in this regard. Without limiting the foregoing, the court has not considered prior drafts of the SWA, which Highland offered in the event parol evidence were to be admitted. (See Ds.'s Findings, ¶ 53.)

failure to meet the third collateral call. UBS sent Highland a notice, dated December 3, 2008, stating that a Termination Date had occurred under the Warehouse Agreements but that it would forbear from exercising its remedies for two days to permit the Fund Counterparties to meet this collateral call. (PX 7.) UBS then sent a further notice to Highland, dated December 5, 2008, stating that it would exercise its remedies as the call had not been met. (PX 8.) UBS held a public auction of the assets in the Knox Warehouse on December 16, 2008. By notice dated December 19, 2008, UBS demanded payment for its claimed losses based on the results of the auction—\$157,949,885.47 for the assets in the Cash Warehouse (PX 10) and \$587,357,060.59 for the assets in the Synthetic Warehouse. (PX 11.) UBS also notified Highland that it elected to retain the Collateral Obligations in the Cash Warehouse. (PX 10.)

CDS Damages

Highland argues that even if the recovery of damages for the CDSs is not barred by UBS's failure to designate the Reference Obligations for the CDSs as Ineligible Securities (a claim this court has rejected above), UBS has not proved damages for these CDSs. Specifically, Highland contends that UBS did not comply with the contractual requirements for calculation of losses because its post-termination auction was untimely and otherwise improper. (Ds.'s Findings, ¶¶ 57-59.) Highland also contends that UBS's marks do not otherwise "establish a reasonable connection between the asset value and UBS's alleged damages." (*Id.*, ¶¶ 60-65.) UBS disputes these assertions. (Ps.'s Findings, at 29-31.)

Sections 6 (C), 5 (B) (2), and 5 (A) (3) are the provisions of the SWA that govern the calculation of CDS Losses upon termination. Section 6 (C) provides in full:

"To the extent there are any CDS Losses, the CDO Fund and SOHC shall collectively be responsible for 100% of any such CDS Losses. Such CDS Losses shall be allocated between the CDO Fund and SOHC on the basis of their respective Allocation Percentages. Each of the CDO Fund and SOHC shall, after notice of the amount due from UBS, remit such

amounts by wire transfer in immediately available funds to UBS within three Business Days after the Termination Date.”

As discussed above, the definition of CDS Losses in Section 5 (B) (2) includes Replacement Loss, the calculation of which is governed by Section 5 (A). With respect to Replacement Loss relating to CDSs that are retained, Section 5 (A) (3) provides in full:

“To the extent UBS retains such exposure, the Replacement Gain and Replacement Loss will be imputed based on the arithmetic average of at least three bids (or, if UBS is unable to obtain three such bids having made commercially reasonable efforts, such lesser number of bids as UBS is able to obtain) obtained by or on behalf of UBS from nationally recognized derivatives dealers in the relevant market (no more than one of which may be UBS or any of its Affiliates; provided that any such bid must be provided in good faith) to assume UBS’s position under such Credit Default Swap.”

The SWA, by its terms, thus contemplated that payment would be made within three days after the Termination Date, subject to notice from UBS. As the SWA provided for an auction to calculate the amount of the losses, it also contemplated that an auction could or would occur within that three day period.

By the terms of UBS’s notices to Highland, although a Termination Date had occurred as of December 3, UBS extended the Fund Counterparties’ time to meet the third collateral call until December 5. The court thus finds that the Fund Counterparties’ breach of the Agreements for failure to meet the third collateral call occurred on December 5. UBS did not conduct the auction to calculate the CDS Losses until December 16.

UBS’s delay of approximately 11 days in conducting the auction, while seemingly de minimis, in fact had momentous financial consequences, given that the delay occurred in the wake of the September 15, 2008 Lehman bankruptcy filing and at the height of the financial crisis. With the market spiraling downward, the CDS losses ascertained through the auction process were approximately \$117 million more than the losses calculated by using UBS’s marks

on either December 3 or December 5. (PX Demo. 21; DX Demo. 12 [showing UBS and Highland marks as of December 3 and 5; PX Demo. 28 at 60 [Ps.'s Closing Statement Demonstrative Exhibit, acknowledging that CDS damages, as calculated based on the auction, exceeded the losses calculated using UBS's marks on December 3 and 5 by over \$117 million].)¹⁶

UBS contends that the three day payment period was for its benefit and that it "could exercise its right to get paid after three business days without waiver." (Ps.'s Findings, at 28.) The court agrees that UBS's delay in demanding payment or holding the auction did not result in a waiver of its right to seek payment of its damages resulting from the Fund Counterparties' breach. (See SWA § 20 ["Neither the failure nor any delay on the part of any party hereto to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver hereof. . . ."].) Highland correctly contends, however, that the delayed auction could not serve as a basis for calculating UBS's damages because the results of the auction did not reflect market conditions as of the date of termination or breach. (See Ds.'s Findings, ¶ 57.)

As explained by the Court of Appeals:

"It has long been recognized that the theory underlying damages is to make good or replace the loss caused by the breach of contract. Damages are intended to return the parties to the point at which the breach arose and to place the nonbreaching party in as good a position as it would have been had the contract been performed. Thus, damages for breach of contract are ordinarily ascertained as of the date of the breach."

(Brushton-Moira Cent. Sch. Dist. v Fred H. Thomas Assocs., P.C., 91 NY2d 256, 261

[1998] [internal citations omitted].)

¹⁶ At the trial, the parties stipulated to dispense with rebuttal testimony from plaintiffs' damages expert, Louis Dudney and, in lieu of such testimony, to the admission into evidence of plaintiffs' Demonstrative Exhibits 20 and 21, and defendants' Demonstrative Exhibit 12. (Trial Tr. at 1868, 1870 [Stipulation].) PX Demo. 21 and DX Demo. 12, which were prepared by Mr. Dudney, calculated damages using plaintiffs' and defendants' marks, respectively, on December 3 and 5, 2008. (Trial Tr. at 1870-1877.)

It is further settled that damages need not be proven with mathematical certainty. It is sufficient that a reasonable basis for the calculation of damages be shown. (See generally J.R. Loftus, Inc. v White, 85 NY2d 874, 877 [1995] [“While a plaintiff may recover damages when the measure of damages is unavoidably uncertain or difficult to ascertain, a reasonable connection between a plaintiff’s proof and a [] determination of damages is nevertheless necessary”]; CDO Plus Master Fund Ltd. v Wachovia Bank, N.A., No. 07 Civ. 11078 [LTS], 2011 WL 4526132, *2 [US Dist Ct SD NY, Sept. 29, 2011] [“The law of New York is clear that once the fact of damage has been established, the non-breaching party need only provide a stable foundation for a reasonable estimate [of damages]” [internal quotation marks and citations omitted, brackets in original].)

UBS’s December 16, 2008 auction cannot satisfy either of these standards because, as held above, the auction did not provide a reliable basis for determining UBS’s losses at, or even shortly after, the breach, due to the exceptional circumstances presented by the financial crisis.¹⁷ The court accordingly turns to the alternative basis advanced by UBS for the calculation of damages—its marks on December 5, 2008. (Ps.’s Findings, at 29.)

It is well settled that “where the breach involves the deprivation of an item with a determinable market value, the market value at the time of the breach is the measure of damages.” (Sharma v Skaarup Ship Mgt. Corp., 916 F2d 820, 825 [2d Cir 1990], cert denied 499 US 907 [1991] [applying New York law and citing Simon v Electrospace

¹⁷ There is authority that “in accordance with the objective that a party seeking recovery for breach of contract is entitled ‘to be made whole’ as of the time of the breach, the [factfinder] should be able to make its valuation determination on all relevant elements of the case, whether dated prebreach, on the date of breach, or ‘some short time period thereafter.’” (Credit Suisse First Boston v Utrecht-America Fin. Co., 84 AD3d 579, 580 [1st Dept 2011] [quoting Boyce v Soundview Tech. Group, Inc., 464 F3d 376, 389 [2d Cir 2006] [other internal quotation marks and citations omitted].) Although the auction was held shortly after the breach, this authority does not support calculation of damages based on the auction results, as the auction did not provide a reliable basis for assessing the losses.

Corp., 28 NY2d 136, 145-146 [1971], motion to amend remittitur and clarify denied 28 NY2d 809].) In accordance with the objective that the injured party be made whole, “damages for breach of contract are ordinarily ascertained as of the date of the breach.” (Brushton-Moira Cent. Sch. Dist., 91 NY2d at 261.)

UBS offered credible testimony that its December 5, 2008 marks reasonably reflected the market value of the CDSs as of the December 5 breach date. In particular, Timothy LeRoux, who at the time of the transaction was second in command to Mr. Grimaldi on the UBS trading desk (LeRoux Testimony, Trial Tr. at 1640), gave credible testimony that, in the regular course of business, the trading desk “marked to market” hundreds of CLO assets, and every week or two was required to assign values on every one of the assets, both cash and synthetic, in the Knox Warehouse. (Id. at 1724.) Mr. LeRoux also described the marking process and identified information, including public information as to offers and bids on CDSs in the marketplace, that UBS considered in developing “objective” prices. (Id. at 1727, 1745-1750.) Mr. Grimaldi also testified that, although the trading desk performed the mark-to-market valuation of the assets in the Knox Warehouse, the UBS valuation group established oversight due to the volatility of the market and “would look at other market observations and make sure that those [the trading desk marks] were in line with the marketplace.” (Grimaldi Testimony, Trial Tr. at 207-208.)

Highland does not dispute that the mark-to-market process is a methodology for determining loss in market value of retained assets. (See e.g. Testimony of Adam Warren [Highland’s damages expert], Trial Tr. at 1268-1269; Testimony of Philip Braner [Highland former executive], Trial Tr. at 469-472; Testimony of UBS’s Timothy LeRoux, Trial Tr. at 1640, 1727-1729.)

Rather, in claiming that UBS’s marks are not competent evidence on which to award damages, Highland suggests that the setting of marks by the trading group involved a conflict of

interest, because the trading group's bonuses were based on the performance of the mark-to-mark assets and the group had the incentive to inflate the value of the assets. (Ds.s' Findings, ¶¶ 61-62.) Highland makes no showing that UBS inflated the value of the CDSs or that trading groups do not routinely develop marks. Moreover, Highland's assertion that "UBS's trading group alone set the marks for the Knox Warehouse assets" (Ds.'s Findings, ¶ 62) ignores UBS's credible testimony, discussed above, that the valuation group exercised oversight in connection with the development of the marks.

Highland's further assertion that its own marks are more reliable (Ds.'s Findings, ¶ 65) is unsupported by persuasive evidence. Philip Braner, who ultimately became Chief Operating Officer of the Highland Capital Management CLO Group and COO of Highland Financial Partners (Braner Testimony, Trial Tr. at 397), testified that Highland was itself tracking marks on the assets in the Knox Warehouse (*id.* at 615) and had an "internal valuation team that was responsible for accumulating marks" in a process in which portfolio managers of the Highland funds participated. (*See id.* at 467.) While Highland appears to assert that its marks are more reliable than UBS's because they were set by a valuation team, Highland fails to show that the role of its valuation team differed in any material respect from that of the UBS valuation group that performed oversight on its trading group in the marking process.

Notably, Highland fails to explain how its methodology in setting marks was more reliable than UBS's. Adam Warren, Highland's damages expert, forthrightly testified that he was not opining on the reasonableness of any marks in this case (Warren Testimony, Trial Tr. at 1247-1248), and he did not in fact give any testimony on whether UBS's or Highland's marks were more reliable.

The evidence at trial also demonstrated that Highland, like UBS, set marks on the CDSs on an asset by asset basis from March 2008 through October 2008. While there were differences

between Highland's and UBS's marks during this period, the Highland and UBS marks in the month of October were substantially similar. The difference in the marks did not escalate substantially until November 2008. (PX Demo. 9, at 4.) Mr. Dudney gave testimony, which was not disputed, that although Highland, like UBS, had been setting marks on an asset by asset basis, Highland stopped doing so as of October 2008 and, in a November 30, 2008 calculation of damages, attributed the same mark (37) to each asset. (Dudney Testimony, Trial Tr. at 883-884, 905-909, DX 116.) Highland offered no explanation for this change in methodology. Mr. Dudney, in contrast, gave plausible testimony that this use of the same mark did not make sense given the deterioration of the market. (Id. at 908.)

In sum, based on the credible evidence at the trial, the court holds that UBS has met its burden of demonstrating that its December 5, 2008 marks provide a reasonable basis, under the circumstances, for the calculation of damages at the time of the breach. In so holding, the court rejects Highland's not fully articulated contention that only an auction, and not a mark-to-market methodology, is a reliable method for calculating damages. (See Ds.'s Findings, ¶ 59.) Highland's reliance on the testimony of its damages expert, Adam Warren, in support of this contention (see id.) is misplaced. While Mr. Warren testified that CDSs are "bespoke contracts," he did not give any testimony that an auction was required to ascertain their value.

Further, as held above, the auction did not provide a reliable basis for determining UBS's damages due to the volatility of the market at the time of the auction. It bears emphasis that, although the market was also volatile at the time the December 5, 2008 marks were accumulated, Highland has not advanced an alternative, other than the non-viable auction, to the mark-to-market valuation methodology. Nor has Highland made any showing that the market value of

the CDSs was not reasonably determinable as of the date of breach using the mark-to-market valuation methodology.¹⁸

The court further holds that UBS has met its burden of demonstrating the reasonableness of its calculation of damages using those marks. UBS's and Highland's experts both provided the court with calculations of damages using UBS's and Highland's marks, respectively, as of December 5, 2008. Mr. Warren confirmed that his main differences with Mr. Dudney regarding the calculation of damages for the Synthetic Warehouse were that Mr. Dudney considered it appropriate, and he did not, to include damages for unrealized CDS losses and for the 20 Internal Swaps in which UBS was both the protection seller and the protection buyer. (Warren Testimony, Trial Tr. at 1298; DX Demo. 12; PX Demo. 21; see also Dudney Testimony, Trial Tr. at 1004.)

Mr. Warren excluded from his damages calculation unrealized CDS losses for all CDSs as to which a designation of ineligibility had not been made. He testified that his basis for doing so was his understanding of the contract—i.e, his understanding that the SWA required such designation—and not industry custom. (Warren Testimony, Trial Tr. at 1281-1282.) For the reasons discussed above, this court has rejected Highland's position that the SWA should be

¹⁸ In its post-trial briefing, Highland sought a finding that if UBS is held to be entitled to recover damages for CDS losses, Highland's marks are more reliable than UBS's for determining those damages. (Ds.'s Findings, ¶ 65.) Highland did not argue that the market value of the losses could not reasonably be determined by using marks. In contrast, in support of its claim that it is entitled to an offset against CDS damages for post-breach termination payments received by UBS on the CDSs, Highland questioned the accuracy of the market valuation at the time of the breach. Highland thus asserted in a footnote: "Given the scant market pricing data available at the time of the breach, post-termination payments and asset dispositions are relevant for the additional reason that they provide a more accurate measurement of the actual value of the Knox assets." (Ds.'s Post-Trial Memo., at 8 n.5.) This assertion is unsupported by any citation to trial testimony. More important, at the trial Highland did not offer any expert testimony that the mark-to-market methodology was not a reliable basis for calculating the CDS damages. For the additional reasons set forth in the section of this decision on Highland's requested Offset for Post-Breach Appreciation In CDS Asset Value, the court finds that offset of post-breach payments received by UBS on the CDSs would be inconsistent with calculation of UBS's damages based on their market value at the time of the breach.

construed as requiring ineligibility designations as a condition of the inclusion of unrealized losses on the CDSs in the calculation of damages. Also for the reasons discussed above, the court has rejected Highland's position that the losses on the Internal Swaps should not be included in this calculation.

Review of the experts' calculations shows, moreover, that when such losses are included in the calculations, the difference between Highland's and UBS's totals is substantially reduced. As previously noted, the parties stipulated to the introduction into evidence of charts prepared by Mr. Dudney comparing his and Mr. Warren's calculations of CDS damages using UBS's and Highland's marks as of December 5, 2008. Using Highland's marks, Mr. Dudney calculated CDS mark-to-market losses of \$388,284,750, compared to Mr. Warren's calculation of \$26,952,895—a difference of \$361,331,855. (DX Demo. 12.) Using UBS's marks, Mr. Dudney calculated losses of \$470,113,605, compared to Mr. Warren's calculation of \$26,952,895—a difference of \$443,160,710. (PX Demo. 21.)

The difference in the totals is largely due to Mr. Warren's exclusion from his calculation of all unrealized CDS losses and all losses for the Internal Swaps. (Warren Testimony, Trial Tr. at 1296-1299.) His calculation of \$26,952,895 for CDS losses includes only realized CDS losses. (Id. at 1250.) According to Mr. Warren, the Internal Swaps account for \$93,952,173 of the CDS damages using UBS's marks, or \$68,801,027 using Highland's marks. (Id. at 1269.) Although Mr. Warren disputed UBS's entitlement to unrealized CDS losses, he performed a calculation including such losses. Using UBS's marks as of December 5, 2008, these losses totaled \$355,487,606. (DX Demo. 10, at 14.) Using Highland's marks as of that date, these losses totaled \$299,118,973. (Warren Testimony, Trial Tr. at 1269; DX Demo. 10, at 14.) Mr. Warren's total, using UBS's marks, for the Internal Swaps (\$93,952,173) and the unrealized CDS losses (\$355,487,606) was \$449,439,779. (DX Demo. 10, at 14.) As stated above, Mr. Dudney's

calculation of total Synthetic Warehouse losses, using UBS's December 5, 2008 marks, was \$470,113,605. Given the magnitude of the damages, this disparity is not material.

The court accordingly holds that UBS incurred losses in the Synthetic Warehouse of \$470,113,605 as of December 5, 2008, the date of the breach, subject to the adjustments discussed below.

CLO Damages

Highland does not dispute that unrealized losses are recoverable for the CLO assets. (Warren Testimony, Trial Tr. at 1293.) Moreover, UBS's (Mr. Dudney's) and Highland's (Mr. Warren's) calculations of the CLO losses as of December 5, 2008 are the same: Using Highland's marks, these losses were \$106,157,101. (DX Demo. 12, at 2.) Using UBS's marks, the losses were \$128,848,101. (PX Demo. 21.) Having concluded that UBS's damages were properly calculated based on UBS's marks as of December 5, 2008, the date of the breach, the court holds that UBS incurred losses in the Cash Warehouse of \$128,848,101, subject to the adjustments discussed below.

Adjustments to Damages Calculation

In calculating the Synthetic and Cash Warehouse losses, Mr. Dudney and Mr. Warren made adjustments for the same items: carry (premiums and interest), collateral value, financing fees, and financing savings. Mr. Dudney's adjustment of \$79,587,557 and Mr. Warren's adjustment of \$76,632,634 did not differ materially. (PX Demo. 21.) According to Mr. Warren, the difference of approximately \$3 million is due to Mr. Warren's exclusion of the Internal Swaps in calculating the carry. (Warren Testimony, Trial Tr. at 1298-1299.) As the court has held that the Internal Swaps were properly included in the damages calculation, Mr. Dudney's adjustments will be accepted.

Reducing UBS's damages by the adjustments, the court holds that UBS sustained total

damages of \$519,374,149 (Cash Warehouse Losses of \$128,848,101 plus Synthetic Warehouse Losses of \$470,113,605 minus \$79,587,557).

OFFSETS

Offset for Post-Breach Appreciation In CDS Asset Value

A central issue in this action is whether Highland is entitled to an offset against UBS's damages for appreciation in the value of the CDSs after the breach. The parties stipulated that UBS received post-breach termination payments net of carry on the CDSs, including the Internal Swaps, in the amount of \$202,223,059. (DX 491.) It is undisputed that these payments were received months and, for many of the CDSs, years after the termination of the transaction. (Ds.'s Post-Trial Memo., at 10 [acknowledging that UBS "liquidated the assets years later"]; PX 335 [spreadsheet showing termination dates for CDSs through 2011].)

Highland argues that, at the time the transaction was terminated, "frozen credit markets had created a severe mismatch between the assets' alleged market value and their actual value based on their cash flows." (Ds.'s Post-Trial Memo., at 10.) Highland further argues that UBS was able to sell these assets for hundreds of millions of dollars more than their December 2008 marks and that, while UBS is entitled to retain the sale proceeds, "it cannot ignore these monies in calculating the harm it actually suffered." (*Id.* at 11.) According to Highland, if disposition of the assets after the termination is not considered, UBS will receive "an enormous windfall." (*Id.*) UBS acknowledges that if a non-breaching party obtains a benefit "because of the breach," the benefit must be offset against the non-breaching party's damages. (Ps.'s Post-Trial Memo., at 6 [emphasis UBS's].) UBS argues, however, that the Fund Counterparties' breach was not a but for cause of the post-breach payments UBS received for the CDSs. (*Id.* at 7.) Rather, subsequent gains that resulted from UBS's disposition of the assets were "the result of UBS's contractual rights [to retain the assets] in the event of any termination and of its subsequent

investment strategy.” (Id. at 14.) According to UBS, the Fund Counterparties’ proposed offset would deprive UBS of the benefit of the bargain and result in a windfall for the Fund Counterparties. (Id.)

As discussed above, contract damages are intended to make “good or replace the loss” caused to a party by the breach of contract and “to place the nonbreaching party in as good a position as it would have been had the contract been performed. Thus, damages for breach of contract are ordinarily ascertained as of the date of the breach.” (Brushton-Moira Cent. Sch. Dist., 91 NY2d at 261.) Further, “where the breach involves the deprivation of an item with a determinable market value, the market value at the time of the breach is the measure of damages.” (Sharma, 916 F2d at 825 [applying New York law and citing Simon, 28 NY2d at 145-146].)

The calculation of damages is also subject to the fundamental precept that where a non-breaching party acquires a “benefit or opportunity for benefit . . . because of the breach, a balance must be struck between benefit and loss” and the benefit must be offset against the non-breaching party’s damages. (Indu Craft, Inc. v Bank of Baroda, 47 F3d 490, 495 [2d Cir 1995] [applying New York law]; accord Aristocrat Leisure Ltd. v Deutsche Bank Trust Co. Americas, 727 F Supp 2d 256, 289 [SD NY 2010] [“[I]f a victim derives a benefit from the breaching party’s breach of contract, the breaching party only is responsible for the victim’s net loss”], reconsideration denied 2010 WL 3431132; Fertico Belgium S.A. v Phosphate Chemicals Export Assn., Inc., 70 NY2d 76, 84 [1987], rearg denied 70 NY2d 694 [holding, in a “cover” action governed by the Uniform Commercial Code, that “[g]ains made by the injured party on other transactions after the breach are never to be deducted from the damages that are otherwise recoverable, unless such gains could not have been made, had there been no breach”] [quoting 5 Corbin, Contracts § 1041].)

Here, although UBS and Highland agree that any benefit derived by UBS because of the breach must be offset against its losses, neither party has cited, and the court's own research has not located, any case in which a court has considered how to apply this precept to a non-breaching party's retention of assets upon a failed securitization transaction and realization of subsequent gains. There is, however, a substantial body of law involving a breaching party's failure to deliver or purchase assets subject to fluctuations in value, in which the courts have assessed damages based on the market value of the assets at the time of breach and have declined to consider any subsequent increases or decreases in value of the assets. As discussed further below, the court concludes that these cases are inconsistent with the offset sought by Highland.

As the Second Circuit has explained in reviewing this body of law, New York courts reject damage awards "based on what 'the actual economic conditions and performance' were in light of hindsight." (Sharma, 916 F2d at 826, quoting Aroneck v Atkin, 90 AD2d 966, 967 [4th Dept 1982], lv denied 59 NY2d 601 [1983].) "They have explicitly rejected the use of subsequent changes in value or profits where they would increase an award, and where they would decrease the award." (Sharma, 916 F2d at 826 [internal citations omitted].)

In the securities context, courts have repeatedly held that the damages for failure to deliver or purchase shares of stock should be based on their market value at the time of breach, and not on any subsequent increase or decrease in their value. (Simon, 28 NY2d at 145-146 [where the seller breached a contract to deliver shares, holding: "The proper measure of damages for breach of contract is determined by the loss sustained or gain prevented at the time and place of breach. The rule is precisely the same when the breach of contract is nondelivery of shares of stock"] [internal citations omitted]; Aroneck, 90 AD2d at 967 [where the buyer breached a contract to purchase shares, holding that

damages should be based on market value at the time of breach, and rejecting the buyer's theory that the "value should be based on the actual economic conditions and performance" of the company post-breach]; Emposimato v CIFC Acquisition Corp., 89 AD3d 418, 421 [1st Dept 2011] [quoting Aroneck and citing Simon in holding that "[i]n the case of a breach of contract to sell securities, expectation damages are calculated as 'the difference between the agreed price of the shares and the fair market value at the time of the breach'"]; Oscar Gruss & Son, Inc. v Hollander, 337 F3d 186, 197 [2d Cir 2003] [following Simon and Aroneck in a case involving the defendant's breach of a contract to deliver warrants]; see also Kaminsky v Herrick Feinstein LLP, 59 AD3d 1, 11-12 [1st Dept 2008], lv denied 12 NY3d 715 [2009] [holding that damages for breach of contract to deliver shares prior to an initial public offering (IPO) should be awarded based on the value of the shares at time of the breach, not their higher value post-IPO].)

The court holds that these cases involve transactions that are analogous to (although far less complex than) the transaction at issue, and apply the same measure of damages that this court has adopted above—namely, the measure of damages based on the market value of the assets on the date of the breach. These cases accordingly govern the calculation of damages here. The court notes, moreover, that sound reasons support the application of this measure of damages without consideration of post-breach fluctuations in the value of the assets.

As the Second Circuit reasoned, a contrary rule that would permit calculation of damages at the time of trial "would be a two-edged sword, because courts would have to diminish damage awards where the value of the item decreased or where losses were encountered subsequent to the breach as well as enhance them where conditions improve. However, New York courts have expressly refused to adopt this 'wait and see' theory of

damages.” (Sharma, 916 F2d at 826.) In addition, although the court does not adjust for changes in the value of the shares when calculating damages according to the date of breach measure, the parties themselves can protect against changes in value by hedging or acquiring shares in the market. As the Second Circuit further reasoned: “To be sure, uncertainties about the future and lack of perfect information may cause an asset to be under- or over-valued at any particular time. At that time, however, either party has an opportunity to hedge according to his or her judgment about the future stream of income.” (Sharma, 916 F2d at 826; see also Simon, 28 NY2d at 146 [where the seller breached a contract to deliver shares, reasoning that “[i]f plaintiff were anxious to own the shares rather than obtain their value, he was free to purchase them in the market. His cause of action should not and may not be converted into carrying a market ‘call’ or ‘warrant’ to acquire the stock on demand if the price rose above its value as reflected in his cause of action”].)

The court further holds that application of the date of breach measure of damages, without adjustments for fluctuations in the value of the assets, will serve the objective of putting UBS in the position it would have been in had the contract been performed. If the securitization had closed, UBS would have been entitled, under the express terms of the SWA, to novate to the Issuer its positions as protection seller on all of the eligible Knox CDSs. (SWA § 5 [B] [1].) As a result of the breach, UBS was forced to assume a substantial risk of loss under the CDSs that would have been novated to the Issuer had the closing occurred. As discussed above, the loss in market value of the retained CDSs as of the date of breach was determined using the mark-to-market methodology. More specifically, as confirmed by both UBS’s and Highland’s experts, the mark-to-market losses calculated as of the date of breach represent the cost to UBS to exit the CDSs—

that is, the payments to be made to third-parties so that they would take on, and UBS could extricate itself from, the risk. (Warren Testimony, Trial Tr. at 1304-1306; Dudney Testimony, Trial Tr. at 894-895.) A damage award for these mark-to-market losses will therefore compensate UBS for the exposure to risk that it would not have faced had the contract been performed.

To the extent that Highland contends that a damage award is not appropriate for these mark-to-market losses because the losses were not realized, the court rejects that contention. The damage award is appropriate, notwithstanding that the losses were not realized, because, as held above, the contract affords UBS the right of recovery for such losses. (See CDO Plus Master Fund Ltd. v Wachovia Bank, N.A., No. 07 Civ. 11078 [LTS], 2011 WL 4526132, * 2 [US Dist Ct SD NY, Sept. 29, 2011] [reasoning that, where the contractual definition of loss for the purpose of calculating damages did not require the CDS protection buyer to sustain “actual loss,” “[t]he absence of an actual loss on a Reference Obligation transaction, thus, is not a barrier to [the protection buyer’s] recovery. . .”] [emphasis in original].)

The court further holds that the record does not support Highland’s contention that UBS’s post-breach gains were realized because of the breach, and that this case therefore falls under the line of authority that requires an offset for such gains. Highland in effect contends that because UBS retained the CDSs as a result of the breach, it also realized the post-breach gains because of the breach.¹⁹ That conclusion does not follow. As held

¹⁹ In so holding, the court rejects UBS’s contention that it would have been entitled to retain the CDS assets, regardless of the Fund Counterparties’ breach, because the Agreements would have terminated in any event as of March 14, 2009, at which point UBS would have had the contractual right to retain the assets. (Ps.’s Post-Trial Memo., at 8.) This assertion is not only speculative but ignores that UBS did in fact acquire the right to retain the assets upon the Fund Counterparties’ breach of the Agreements as a result of their failure to meet the third collateral call. For the reasons discussed in the text, however, the court cannot accept Highland’s further contention that UBS realized gains on the retained CDSs because of the breach.

above, UBS had a contractual right to retain the CDSs upon the termination of the transaction based on the Fund Counterparties' breach of the SWA by failing to meet the collateral call. The SWA does not contain any provision that limited UBS's discretion as to when to dispose of the assets after termination. Rather, as UBS persuasively argues, the gains realized as a result of the post-breach disposition of assets were attributable not to the breach itself but to UBS's assumption of the risk of loss on the CDSs and its investment strategy as to when to dispose of them based on its assessment of the market. (See G & R Corp. v American Sec. Trust Co., 523 F2d 1164, 1175 [DC Cir 1975] [holding that while the transfer of property to the plaintiffs was caused by the defendant's breach, the profit realized by the plaintiffs from a post-breach sale was not "caused by the breach" but was "attributable to the [plaintiffs'] decision to hold [the property] until [its] condition and the market were favorable for sale".])

Nor does Highland successfully argue that the gains realized by UBS on the post-breach disposition of the assets must be offset under general principles which require a party who suffers damages as a result of another's breach to take reasonable steps to mitigate its damages. (See Ds.'s Post-Trial Memo., at 5-9.) Highland cites cases requiring mitigation in connection with the purchase and sale of securities and transactions in other markets. (See e.g. Drummond v Morgan Stanley & Co., Inc., No. 95 Civ. 2011 [DC], 1996 WL 631723, * 2-3 [US Dist Ct SD NY, Oct. 31, 1996] [holding that where the buyer breached a contract to purchase securities, the seller must take steps to mitigate its damages by selling the securities within "a reasonable period of time"]; Saboundjian v Bank Audi (USA), 157 AD2d 278, 284-285 [1st Dept 1990] [holding that where a broker failed to execute a customer's speculative currency exchange order, the customer was required to direct execution of the trade "within a reasonable time after he learned that it had not been effected earlier".].)

These cases are inapposite, as the SWA affords UBS the contractual right to retain the securities upon the Fund Counterparties' breach. Ironically, although purporting to rely on these cases, which in fact require that the non-breaching party mitigate within a reasonable period of time, Highland argues not that UBS was required to dispose of the CDSs within a reasonable period of time after the breach but that it was required to hold them for months and, indeed, years, until the market improved. Highland thus asserts that UBS reasonably mitigated by "holding (as opposed to fire selling) fully performing interest and premium-bearing assets in the face of a dysfunctional market. . .," and that "UBS's mitigation was not only reasonable, but required by law." (Ds.'s Post-Trial Memo., at 7.) Put another way, Highland does not identify a specific date or dates by which UBS was required to mitigate. To the contrary, without citation to any legal authority, Highland argues that UBS was required to hold the assets for an indefinite period, until the market improved, to minimize its losses.

The mitigation cases provide no support for Highland's assertion that UBS's disposition, months and years after the breach, of assets that it had a contractual right to retain, constitutes mitigation.²⁰ Rather, in claiming that it is entitled to "offsets" for the post-breach gains realized by UBS, Highland appears in effect to advance a measure of damages that is patently inconsistent with the fundamental tenet of the date of breach measure of damages—namely, that a non-breaching party's damages for assets with a determinable market value must be calculated

²⁰ Nor does Highland cite any other authority that supports its claim that it is entitled to offsets for post-breach gains realized by UBS. Cases in which a party has a duty to cover (see e.g. Fertico Belgium S.A. v Phosphate Chemicals Export Assn., Inc., 70 NY2d 76, supra) are inapposite, given UBS's contractual right to retain the CDSs upon the breach. Cases in which a party is on both sides of a securities transaction are factually dissimilar. (See Aristocrat Leisure Ltd. v Deutsche Bank Trust Co. Americas, 727 F Supp 2d 256, supra [where the plaintiff company breached a contract affording the defendant bondholders the right to convert their bonds to the company's stock, and the bondholders held open existing short positions in the company's stock on which they realized post-breach gains, the company was entitled to an offset]; see also Minpeco, S.A. v Conticommodity Servs., Inc., 676 F Supp 486, 490 [SD NY 1987] [holding that the plaintiff's losses on short futures positions on silver as a result of the defendants' manipulation of the market were required to be offset by the plaintiff's profits on physical silver positions also then held by the plaintiff].)

at the date of breach, not based on hindsight, and that neither party can select the date on which the damages calculation will be most favorable to it. Thus, a non-breaching buyer cannot select the date on which the assets “had their highest value or a period of time that was profitable but that excludes periods when losses occurred.” (See Sharma, 916 F2d at 826.) Similarly, a breaching buyer cannot avoid or reduce the damages caused by its breach by invoking post-breach decreases in the value of the assets. (See id.)

The court accordingly holds that Highland’s request for an offset for UBS’s post-breach gains from the disposition of the CDSs must be denied.

Offset for Right of First Refusal Counterclaim

Highland Capital Management, L.P. (Highland Capital) seeks judgment on its first counterclaim against plaintiff UBS Securities LLC for breach of the Cash Warehouse Agreement provision affording it the right to purchase CLO assets in the event UBS elected to retain such assets upon the termination of the Agreement. Section 5 (A) of the CWA provides that in event of failure to close, “UBS shall be authorized (but not required) to sell each Collateral Obligation then in the Warehouse Account in accordance with the Liquidation Procedures.” The Liquidation Procedures set forth in section 7 (A) of the CWA provide in pertinent part:

“If any Collateral Obligation is to be sold, UBS shall have the right to direct such sale on such terms and in such manner and at such time that it deems appropriate in its sole discretion. UBS may, in its sole discretion, elect to retain any such Collateral Obligation or to sell such Collateral Obligation to one of UBS’s Affiliates in which event, for purposes of determining Net Collateral Gain and Net Collateral Loss, such Collateral Obligation shall be deemed to have been liquidated at a price equal to its Market Value. To the extent that UBS in its sole discretion elects to retain such Collateral Obligation, the Servicer will have the right to purchase such Collateral Obligation at its Market Value.”

Section 7 (A) further provides that if UBS elects to sell CLOs upon termination, “the Servicer will have the right to bid for and purchase such Collateral Obligation at a purchase price equal to

the highest third party bid received by UBS for the purchase of such Collateral Obligation.”

It is undisputed that Highland Capital notified UBS that it sought to purchase six of the CLOs with a bid price of \$1.9 million and a notional value of \$44 million, but that it sought to provide the funds for the purchase, and to settle the trades, in the name of one of its affiliates, CLO Value Fund. (Ds.’s Findings, ¶ 21.) UBS declined to agree to the sale to the Highland Capital affiliate. (Id.; DX 72; PX 292.)

The court is unpersuaded that a Highland Capital affiliate had the right, under the CWA, to purchase the CLOs. Section 7 (A), which governs the disposition of the CLO assets upon termination, expressly affords one UBS Affiliate the right to purchase CLOs. In contrast, this Section affords the right to purchase only to the Servicer, and not to any other Highland entity. The Servicer is defined as Highland Capital Management, L.P. (CWA, First Paragraph.) Reading the CWA as a whole, the court further finds that no other provision modifies or is inconsistent with this limitation. On the contrary, where the acts of Highland Capital’s Affiliates were implicated, the CWA expressly referred to the Affiliates. (CWA, § 13 [B] [limiting the liability of the “Servicer” “for any acts or omissions by the Servicer or any Affiliate of the Servicer, or any of their directors, officers, members, agents, equity holders [and others] under or in connection with this Agreement, or for any decrease in the value of the Collateral Portfolio”].)²¹ The court accordingly holds that the CWA unambiguously provides that the right to purchase retained CLOs is limited, among the Highland entities, to Highland Capital.

In view of this holding that the CWA is not ambiguous with respect to Highland’s post-

²¹ The parties to the transaction knew how to afford rights to purchase assets to Affiliates of the Servicer. The SWA provides that if the closing fails to occur, UBS may, with the consent of the related counterparty, novate CDSs “to a third party or to the Servicer (or any Affiliate of the Servicer designated by the Servicer). . . .” (SWA § 6 [A].) The omission from the CWA of authorization to Affiliate(s) of the Servicer to purchase CLOs is therefore notable. Moreover, Highland Capital does not claim that the concerns—regulatory and other—that are implicated in novating CDSs are comparable to those in selling CLOs.

termination right to purchase CLOs, the court rejects Highland's contention that the court should consider evidence allegedly showing that UBS and Highland Capital had a prior course of conduct in which UBS permitted Highland Capital to settle trades "at its fund level." (Ds.'s Findings, ¶¶ 80-81.) Parol evidence of course of conduct is not admissible to construe an unambiguous contract. (See e.g. Sigismondi v Queens Transit Corp., 38 AD2d 71, 73 [2d Dept 1971], affd no opinion 32 NY2d 745 [1973]; Evans v Famous Music Corp., 1 NY3d 452, 459 [2004].)

The court further notes that even if Highland Capital could recover on its counterclaim, the damages it seeks are not recoverable. Highland Capital seeks a finding that because the CLOs continued to perform until maturity, "it would have profited \$46 million" if it had been permitted to exercise its right of first refusal to purchase the CLOs. (Ds.'s Findings, ¶ 82; DX Demo. 9.) As Highland Capital acknowledges, however, the market value of the CLOs at the time of breach was \$1,934,214. (DX Demo. 9.) The measure of damages, as explained above in connection with Highland Capital's claim for offsets against UBS's damages, is the market value of the assets as of the date of breach, not the increase in their value in the indefinite future.

Offset for Unjust Enrichment

Highland Capital also seeks judgment on its second counterclaim alleging that UBS was unjustly enriched by its failure to permit Highland Capital, through its affiliate CLO Value Fund, to purchase the Collateral Obligations upon termination. This claim for unjust enrichment is not maintainable as the right to purchase is governed by contract—the CWA. (See generally Pappas v Tzolis, 20 NY3d 228, 234 [2012], rearg denied 20 NY3d 1075 [2013]; Clark-Fitzpatrick, Inc. v Long Is. R.R. Co., 70 NY2d 382, 388-389 [1987].)

Offset for Settlements with Highland Affiliates

Highland also requests an offset for settlements with three Highland Affiliates—Highland Credit Strategies Master Fund, L.P. (Credit Strategies), Highland Crusader Offshore Partners, L.P. (Crusader Offshore), and Highland Crusader Holding Corporation (Crusader Holding) (collectively, the Settling Highland Affiliates). Credit Strategies and Crusader Offshore were defendants in this action. UBS asserted its fraudulent conveyance cause of action against them as well as all of the other defendants. (Second Am Compl., Fifth Cause of Action.) Crusader Holding was a defendant in a separate complaint, which asserted a fraudulent conveyance cause of action against it. (UBS Secs. LLC v Highland Crusader Holding Corp., Sup Ct, NY County, Index No. 652646/11, Compl., First Cause of Action; Ps.’s Letters, dated July 21, 2015 [NYSCEF Doc. No. 397]; Jan. 7, 2016 [NYSCEF Doc. No. 398].) This court bifurcated the trial of this action, directing that it would first hold a bench trial on the breach of contract claims, which were triable by the court and are the subject of this decision, and that the fraudulent conveyance and other claims, which are triable by a jury, would be heard subsequently. (May 1, 2018 Decision on the Record [NYSCEF Doc. No. 494].)

The parties dispute whether the confidential settlements (DX 76 id and DX 77 id) may be considered in this action. They also dispute whether the settlements may be offset, pursuant to statute or case law, against the damages awarded by this decision to UBS against the Fund Counterparties on the breach of contract causes of action. (See Ps.’s Post-Trial Memo., at 14-21; Ds.’s Post-Trial Memo., at 15-19, 21-24.)

Even assuming, without deciding, that the damages may be subject to offset by the settlements, the determination of whether or to what extent the offset should be allowed must await determination of the jury trial. Where an offset for a settlement is sought, “the damages against which the settlement is sought to be applied should be determined so a proper comparison can be made between them and the damages covered by the settlement.” (Carter v.

State of New York, 139 Misc 2d 423, 429 [Ct Cl, 1988], affd 154 AD2d 642 [2d Dept 1989];
accord Moller v North Shore Univ. Hosp., 12 F3d 13, 16 [2d Cir 1993] [applying New York
law].)

Here, Highland argues that the causes of action against the settling defendants are
“wholly derivative of its breach-of-contract claims against the Fund counterparties.” (Ds.’s Post-
Trial Memo., at 16.) UBS persuasively argues, in opposition, that the fraudulent conveyance
causes of action seek relief in addition to compensatory damages, including imposition of a
constructive trust and punitive damages. (Ps.’s Post-Trial Memo, at 22-24; Second Am. Compl.,
at 57-58.) Moreover, the damages, if any, that will be awarded against the Fund Counterparties
and Highland Capital on the fraudulent conveyance cause of action remain to be determined at
the jury trial. On this record the court accordingly cannot compare the settlements with the
fraudulent conveyance damages. Nor is there any basis for the court to determine the extent to
which the settlements cover the same damages, or damages that overlap with, the breach of
contract damages awarded to UBS against the Fund Counterparties by this decision. The
determination of the offset issue will therefore be deferred pending the jury trial. As it appears,
however, that Highland may be entitled to an offset for some or all of the settlement amounts, the
court will stay enforcement, to the extent of the settlement amount (\$70.5 million), of the
judgment to be awarded to UBS against the Fund Counterparties for the damages for breach of
contract.

Conclusion

UBS is entitled to damages for \$519,374,149 on the third and fourth causes of action
against the Fund Counterparties for breach of the Cash Warehouse and Synthetic Warehouse
Agreements. Enforcement of the judgment for this amount will be stayed up to \$70.5 million,
the amount of the settlements with the Settling Highland Affiliates.

ORDER

It is hereby ORDERED that the parties shall meet and confer with a view to reaching agreement on the form of the judgment, including but not limited to the Allocation Percentages of CDO Fund and SOHC, and the award of interest. If the parties are unable to reach such agreement, they shall promptly settle judgment; and it is further

ORDERED that this decision shall be filed under seal for ten business days from the date hereof to afford the parties the opportunity to confer and to advise the court as to whether there is any information in the decision which is claimed by any party to be confidential. The parties shall, within five business days of the date hereof, submit a joint letter of no more than three pages, advising the court of their positions on this issue. The letter should be accompanied by a joint copy of the decision, highlighting the portion(s) of the decision which each party claims is confidential and should be redacted in the decision that will be publicly filed; and it is further

ORDERED that the parties shall telephone the court on a conference call within five business days of the date hereof (at a specific date and time to be arranged with the Clerk of Part 60) to discuss the above confidentiality issue as well as the jury trial phase of this action. The parties should be prepared to address whether, or to what extent, the jury trial may proceed in light of Highland Capital's filing of a bankruptcy petition.²²

This constitutes the decision and order of the court.

Dated: New York, New York
November 14, 2019


MARCY FRIEDMAN, J.S.C.

²² By letter dated October 17, 2019 (NYSCEF Doc. No. 640), counsel (Reid Collins & Tsai LLP) for Highland Capital, the Fund Counterparties and other Highland defendants, advised the court of Highland Capital's bankruptcy filing, and represented that the automatic stay does not preclude decision of the causes of action against the Fund Counterparties or the counterclaim by Highland Capital. This letter sought to reserve defendants' position on the effect of the bankruptcy filing on subsequent proceedings in this action.

EXHIBIT 6

(pending ruling on motion to seal)

EXHIBIT 7

(pending ruling on motion to seal)

EXHIBIT 8

**CONFIDENTIAL MATERIAL SUBJECT TO THE STIPULATION AND ORDER FOR
THE PRODUCTION AND EXCHANGE OF CONFIDENTIAL INFORMATION
ENTERED IN UBS SECURITIES LLC, ET AL. v. HIGHLAND CAPITAL
MANAGEMENT, L.P., ET AL., INDEX NO. 650097/2009, HAS BEEN REDACTED**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

UBS SECURITIES LLC and UBS AG, LONDON BRANCH,

Plaintiffs,

-against-

HIGHLAND CRUSADER HOLDING CORPORATION,

Defendant.

Index No.




COMPLAINT

Plaintiffs, UBS Securities LLC (“UBSS”) and UBS AG, London Branch (“UBS AG”) (collectively, “UBS”), for their Complaint allege against defendant Highland Crusader Holding Corporation (“Crusader Holding Corp.”), as follows:

NATURE OF THE ACTION

1. UBS brings this action to recover damages in excess of \$686 million resulting from the wrongful conduct of defendant Crusader Holding Corp. (and others), based on causes of action for fraudulent conveyances and tortious interference.
2. Highland Capital Management, L.P. (“Highland Capital”) is a defendant in an action commenced by UBS (the “Highland Capital Action”) on or about June 28, 2010, which involves, among other things, fraudulent conveyance claims arising out of asset transfers directed by Highland Capital in March of 2009. Highland Special Opportunities Holding Company (“SOHC”), Highland CDO Opportunity Master Fund, L.P. (“CDO Fund,” and together with SOHC, the “Fund Counterparties”), Highland Financial Partners, L.P. (“Highland Financial”), Highland Credit Strategies Master Fund, L.P. (“Credit Strategies”), Highland Crusader Offshore Partners, L.P. (the “Crusader Fund”), Highland Credit Opportunities CDO, L.P. (the “Credit

Opp. Fund”), and Strand Advisors, Inc. (“Strand”) are defendants (collectively, the “Highland Entities”) in a separate action commenced by UBS (the “Highland Entities Action”) on February 24, 2009. The Highland Entities Action concerns, among other things, claims for fraudulent conveyances, fraudulent inducement and breach of contract. On or about October 7, 2010, this Court consolidated the Highland Entities Action and the Highland Capital Action. The Highland Entities Action and the Highland Capital Action are referred to herein as the “Consolidated Action”. As alleged in the Consolidated Action, together with Highland Capital, the Fund Counterparties fraudulently induced UBS to restructure a transaction to avoid Highland Capital’s and the Fund Counterparties’ contractual obligation to pay UBS over \$86 million. Once Highland Capital and the Fund Counterparties succeeded in misleading UBS into restructuring the original transaction, Highland Capital and its affiliates, including defendant Crusader Holding Corp., made it impossible for the Fund Counterparties to meet their obligations to UBS by stripping the Fund Counterparties and SOHC’s alter ego, of their valuable assets through fraudulent conveyances and otherwise dealing in bad faith with their contractual obligations to UBS.

3. When UBS finally terminated the restructured transaction and demanded payment from Highland Capital and the Fund Counterparties, it was owed in excess of \$686 million that the Fund Counterparties could not pay because of the misappropriations and improper transfers of assets directed by Highland Capital and the Fund Counterparties. Even after UBS demanded payment, Highland Capital, the Highland Entities and defendant Crusader Holding Corp. engaged in further unlawful conduct that harmed UBS by 



4.



SUMMARY OF THE ACTION

5. This action arises out of Highland Capital's efforts in the Spring of 2007 to sponsor a collateralized debt obligation ("CDO") securitization (the "Original Engagement"). In connection with the Original Engagement, UBS agreed to finance the purchase of various collateralized loan obligation ("CLO") securities, as well as credit default swap obligations that referenced similar CLO securities. UBS agreed to hold or "warehouse" the CLO securities and credit default swaps (collectively, the "Warehouse Assets" or "Warehouse Facility") for Highland Capital's benefit.

6. On or about August 15, 2007, the Original Engagement terminated by its terms without the contemplated securitization having occurred. As a result of the termination, Highland Capital and two of its affiliates, the Fund Counterparties, owed UBS in excess of \$86 million related to the decline in the value of the Warehouse Assets.

7. Instead of paying UBS what it was owed, Highland Capital and the Fund Counterparties fraudulently induced UBS to restructure the Original Engagement by providing UBS with false, incomplete and otherwise misleading information concerning the Fund Counterparties' finances and assets. Using both affirmative material misrepresentations and omissions (material facts or information needed to be disclosed to make the statements actually made not misleading, and which were not disclosed, are referred to hereinafter as "Omissions"), Highland Capital, its principals and the Fund Counterparties misled UBS regarding the financial

health of the Fund Counterparties and their creditworthiness, thereby causing UBS to forego recovering its losses from Highland Capital in favor of agreeing to restructure the terms of the parties' prior agreements (the "Restructured Transaction").

8. For example, the strength of the Fund Counterparties' financial statements, and their purported ability to use the hundreds of millions of dollars worth of assets reflected therein to satisfy future obligations to UBS under the Warehouse Agreements were material to UBS's decision to agree to the restructuring. Consequently, in connection with negotiating the Restructured Transaction, UBS conditioned any restructuring on the Fund Counterparties' ability to post \$70 million in cash and securities as collateral (the "Initial Restructuring Collateral") with State Street Bank and Trust Company ("State Street"), in which UBS would hold a security interest.

[REDACTED]

[REDACTED] Highland Capital and the Fund Counterparties were able to conceal important information about the Fund Counterparties' financial weakness that was both quantitatively and qualitatively material to UBS, and which would have caused UBS not to enter the Restructured Transaction.

9. Similarly, while negotiating the Restructured Transaction, Highland Capital and the Fund Counterparties provided UBS with financial reports and statements for the Fund Counterparties. The financial information that Highland Capital and the Fund Counterparties provided to UBS contained materially false and misleading information and Omissions concerning the financial condition of the Fund Counterparties. Among other things,

[REDACTED]

[REDACTED]

10. In reliance on material misstatements and Omissions made by Highland Capital and the Fund Counterparties, UBS agreed to restructure the Original Engagement, and thereby were fraudulently induced to give up contractual rights under the terms of the Original Engagement. In particular, UBS reasonably and justifiably relied on misrepresentations and Omissions of facts and information solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to believe that Highland Capital and its affiliates would provide it with false, incomplete or otherwise misleading information about the Fund Counterparties' finances and assets, as they in fact did.

11. Had UBS known that the Fund Counterparties could not [REDACTED]
[REDACTED] it would not have gone forward with the Restructured Transaction. UBS never would have agreed to the Restructured Transaction had it known prior to entering the Restructured Transaction the true status of the Fund Counterparties' financial condition and the true fair market value of the Fund Counterparties' holdings that would have been available to satisfy their then-existing and future obligations to UBS. UBS's losses described herein were directly and proximately caused by the conduct of Highland Capital, defendant Crusader Holding Corp. and the Highland Entities as described herein.

12. Almost immediately after UBS agreed to the Restructured Transaction, Highland Capital began the process of making it impossible for the Fund Counterparties to ever

repay UBS what they owed. In particular, exercising its control over the Fund Counterparties, Highland Capital caused the Fund Counterparties to transfer cash for the benefit of Highland Capital and its principals, and, separately, in violation of UBS's rights, [REDACTED] all during a time when the Fund Counterparties owed UBS hundreds of millions of dollars.

13. For example, in or around May 2008, Highland Capital caused the dissipation of approximately \$100 million in cash that CDO Fund held after it sold a long position in a company called SunCom Wireless. Highland Capital drained CDO Fund's cash resources despite CDO Fund's ever-increasing obligations to UBS. Highland Capital's bad faith conduct caused injury to UBS by making it impossible for the Fund Counterparties to satisfy their contractual obligations to UBS.

14. In September 2008, as losses in the Warehouse Facility continued to grow, UBS began to exercise its contractual rights and make margin calls demanding additional collateral from the Fund Counterparties. Because Highland Capital had routinely taken cash out of the Fund Counterparties, the Fund Counterparties were undercapitalized and lacked assets and liquidity to meet UBS's demands for additional collateral.

15. Highland Capital and its principals, including its president and founder, James D. Dondero, knew that if the Fund Counterparties defaulted on their obligations to UBS (or any other creditor), Highland Capital's ability to conduct business in the financial community and to keep or solicit investors would be harmed. Investors in Highland Capital's hedge fund family would withdraw their investments. In addition, creditors would take actions to protect themselves, including foreclosing on collateral and aggressively enforcing their contractual rights. Highland Capital and its principals were concerned that upon the disclosure of the true state of their affairs, their business would collapse.

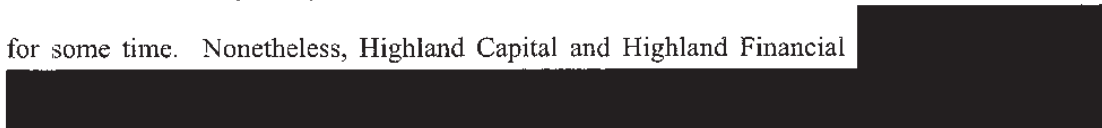
16. To avoid that result, Highland Capital and its principals resorted to



17. Highland Capital's and its principals' belated attempt to protect their reputation by continuing to fraudulently portray the Fund Counterparties as viable independent entities was ultimately unsuccessful. By late October 2008, Highland Capital could no longer continue to prop up the Fund Counterparties.

18. On or about November 11, 2008, UBS demanded additional collateral from the Fund Counterparties. The Fund Counterparties defaulted. On December 3, 2008, UBS terminated the Restructured Transaction. As a result of UBS's termination of the Restructured Transaction, the Fund Counterparties were contractually obligated to pay UBS in excess of \$686 million.

19. On or about February 24, 2009, UBS filed the original complaint in this Court against the Fund Counterparties for breach of the Warehouse Agreements that had been entered in connection with the Restructured Transaction. By that time, the Fund Counterparties and SOHC's alter ego, Highland Financial, had been insolvent and unable to pay their creditors for some time. Nonetheless, Highland Capital and Highland Financial





20. In sum, after fraudulently inducing UBS to agree to the Restructured Transaction, Highland Capital and its principals exercised their domination over the Fund Counterparties to improperly transfer substantial assets from the Fund Counterparties for their own personal gain, *i.e.*, solely and improperly to protect and enhance the value of Highland Capital and its principals by wrongful and improper means. In the process, they made it impossible for the Fund Counterparties to pay UBS the losses they had agreed to pay on the Warehouse Facility.

THE PARTIES

A. The Plaintiffs

21. Plaintiff UBS AG, London Branch, is a banking corporation organized under the laws of Switzerland with its principal place of business at Finsbury Avenue, London, United Kingdom.

22. Plaintiff UBSS is a limited liability company organized under the laws of Delaware with its principal places of business at 677 Washington Blvd., Stamford, Connecticut, and 299 Park Avenue, New York, New York.

B. Defendant Crusader Holding Corp.

23. Defendant Highland Crusader Holding Corporation (“Crusader Holding Corp.”) is a Delaware corporation with its principal place of business at 13455 Noel Road, Suite 800, Dallas, Texas 75240. On information and belief, Crusader Holding Corp. is a wholly-owned subsidiary of the Crusader Fund. Crusader Holding Corp. transacts business within New York, and derives substantial revenue from interstate and international commerce.

C. The Other Affiliated Transferees [REDACTED]

24. Highland Credit Strategies Master Fund, L.P. (“Credit Strategies”) is a Bermuda limited partnership organized with its principal place of business at Victoria Place, 31 Victoria Street, Hamilton HM10, Bermuda. Credit Strategies transacts business within New York, and derives substantial revenue from interstate and international commerce.

25. Highland Crusader Offshore Partners, L.P. (the “Crusader Fund”) is a Bermuda limited partnership with its principal place of business at Victoria Place, 31 Victoria Street, Hamilton HM10, Bermuda. The Crusader Fund also has an office located at 13455 Noel Road, Suite 800, Dallas, Texas 75240. The Crusader Fund transacts business within New York, and derives substantial revenue from interstate and international commerce.

26. Highland Credit Opportunities CDO, L.P. (the “Credit Opp. Fund”) is a Delaware limited partnership with its principal place of business at 13455 Noel Road, Suite 800, Dallas, Texas 75240.

27. Defendant Crusader Holding Corp., Credit Strategies, the Crusader Fund and the Credit Opp. Fund are referred to herein collectively as the “Affiliated Transferees” [REDACTED]

D. Highland Capital

28. Highland Capital Management, L.P. (“Highland Capital”) is a limited partnership organized under the laws of Delaware, with its principal place of business at 13455 Noel Road, Suite 800, Dallas, Texas 75240, and an office at 9 West 57th Street, New York, New York. Highland Capital is registered to do business in New York. Highland Capital describes itself as a 100% employee-owned partnership. Highland Capital is an investment adviser that manages a large number of investment entities that operate as hedge funds for Highland Capital’s principals and affiliates, as well as unaffiliated investors. Highland Capital currently manages over \$25 billion in various assets, including structured financial products. Highland Capital also holds direct and indirect equity and ownership interests in the entities that it manages, including in Highland Financial, the Fund Counterparties and the Affiliated Transferees. James D. Dondero is the President of Highland Capital, as well as one of its founders. On or about June 28, 2010, UBS commenced the Highland Capital Action against Highland Capital. The Highland Capital Action was later consolidated with the Highland Entities Action by a Decision and Order, entered by this Court on October 7, 2010 (this action and the Highland Capital Action are referred to herein as the “Consolidated Action”).

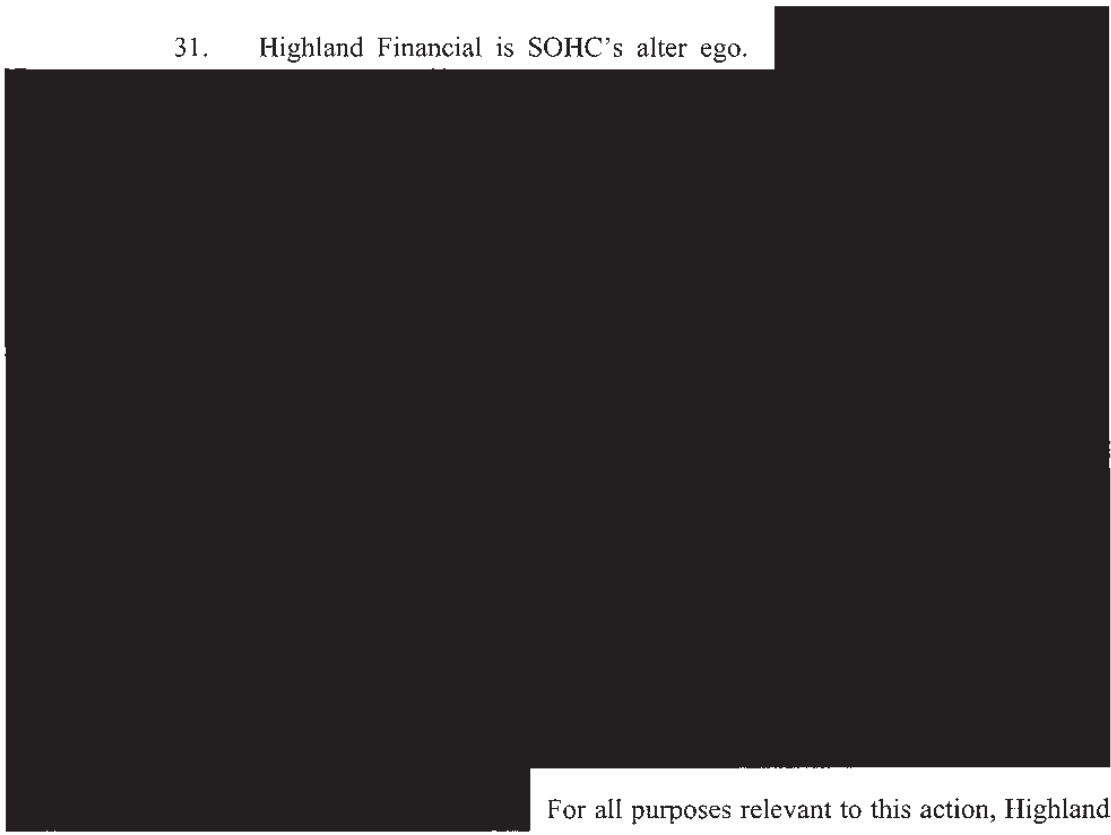
E. Strand

29. Strand Advisors, Inc. (“Strand”) is Highland Capital’s general partner. Strand is a Delaware corporation principally engaged in the business of serving as the general partner of Highland Capital. As Highland Capital’s general partner, Strand is responsible for Highland Capital’s liabilities and obligations and regularly conducts business in New York, or causes its affiliates to conduct business in New York.

F. Highland Financial and SOHC

30. Highland Special Opportunities Holding Company (“SOHC”) is a company organized under the laws of the Cayman Islands, with its offices at Walker House, PO Box 908GT, Mary Street, George Town, Grand Cayman, Cayman Islands. SOHC is a wholly-owned subsidiary of Highland Financial Partners, L.P. (a Delaware limited partnership) (“Highland Financial”). SOHC has six sister subsidiaries, all of which are owned in whole or in part by Highland Financial. Highland Capital serves as investment manager to Highland Financial, SOHC and its sister subsidiaries.

31. Highland Financial is SOHC’s alter ego.



For all purposes relevant to this action, Highland Financial and SOHC should be treated as a single entity and as alter egos of one another.

G. CDO Fund

32. Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”) is a Bermuda exempted limited partnership, with its principal place of business at 52 Reid Street, Hamilton, Bermuda. Highland Capital controls CDO Fund’s investment decisions through an investment management agreement. Between January 31, 2007 and August 31, 2008, Highland Capital’s and its affiliates’ aggregate ownership interest in CDO Fund ranged between 43.36% and 56.44%. Highland CDO Opportunity Fund, L.P. and Highland CDO Opportunity Fund, Ltd. serve as so-called “feeder funds” for CDO Fund.

H. Non-Parties Affiliated With Highland Capital In Which The Fund Counterparties Invested

33. The Fund Counterparties held investments in several Highland Capital-affiliated funds, including Highland Credit Opportunities CDO, L.P., Highland Legacy, Highland Loan Funding V, Highland Park CDO I, Ltd., Highlander Euro CDO B.V. and Highlander Euro CDO III B.V. Highland Capital served as the investment manager for these affiliated funds, and received valuable fees derived from the valuations of these funds’ assets, which it managed.

JURISDICTION AND VENUE

34. Venue in this Court is proper under CPLR 503 because plaintiff UBSS has a principal place of business in New York County.

35. This Court also may exercise jurisdiction over Crusader Holding Corp. pursuant to CPLR 301 and 302(a)(1) and (3), because Crusader Holding Corp. regularly transacts and solicits business in New York, committed tortious acts causing injury in New York, should reasonably have expected that its tortious acts would have consequences in New York, the effect of its wrongful conduct was felt in New York, and/or derive substantial revenue from interstate or international commerce.

FACTUAL BACKGROUND

A. The Original Engagement

36. In or around April 2007, Highland Capital approached UBS for short-term financing in connection with a securitization that Highland Capital wanted to sponsor. UBS agreed to do so (the “Original Engagement”).

37. On or about April 20, 2007, UBSS and Highland Capital entered into an engagement letter (the “Original Engagement Letter”), which contemplated that UBSS would act as the exclusive financial arranger and placement agent for a type of collateralized debt obligation transaction (“CDO”), known as a collateralized loan obligation (“CLO”) squared or “CLO Squared” transaction. (A copy of the Original Engagement Letter is annexed hereto as Exhibit A.)

38. CLOs are a form of securitization where interest and principal payments on corporate loans made to multiple mid-sized and large businesses are pooled together by a lender or the owner of the loans, and then passed on through a securitization structure to investors. CLOs typically involve multi-million dollar loans known as syndicated loans, or leveraged loans made to new businesses or existing businesses, often to acquire other companies. The loan originators are able to spread risk through the CLO securitization, and simultaneously free up capital to make new loans to other businesses. The Original Engagement contemplated the securitization of CLO securities. Thus, the securitization contemplated by Highland Capital would have been a “CLO Squared” transaction.

39. On or about May 22, 2007, as contemplated by the Original Engagement Letter, UBSS and Highland Capital entered into a warehouse agreement (the “Original Cash Warehouse Agreement”). (A copy of the Original Cash Warehouse Agreement is annexed hereto as Exhibit B.) In accordance with the terms of the Original Engagement Letter and the

Original Cash Warehouse Agreement, UBSS agreed to acquire securities as directed by Highland Capital. Highland Capital instructed UBS to acquire various CLO securities issued in connection with prior CLO transactions involving other sponsors and issuers (the “Cash Portfolio”).

40. In a separate but related synthetic warehouse agreement (the “Original Synthetic Warehouse Agreement,” and together with the “Original Cash Warehouse Agreement,” the “Original Warehouse Agreements”), UBS AG agreed to enter into credit default swaps (the “CDS Portfolio,” and together with the Cash Portfolio, the “Warehouse Assets”), pursuant to which UBS AG sold credit protection to various third parties. (A copy of the Original Synthetic Warehouse Agreement is annexed hereto as Exhibit C.)

41. For Highland Capital’s benefit, UBS held the Warehouse Assets on its balance sheet (the “Warehouse Facility”). UBS was expected to hold the Warehouse Assets until such time as the parties could arrange for the assets to be securitized as part of the contemplated securitization. In particular, if the parties believed that a securitization was economically feasible, they would create a special purpose entity that would acquire the Warehouse Assets from UBS using the proceeds from the sale of securities to investors. The special purpose entity’s debt securities would be secured by those Warehouse Assets.

42. Under the Original Warehouse Agreements, if the Original Engagement terminated without a securitization, Highland Capital and the Fund Counterparties were obligated to pay UBS for losses on the Warehouse Assets. In particular, under the terms of the Original Cash Warehouse Agreement, Highland Capital was directly responsible for the first \$50 million in losses in the Cash Portfolio, and under the terms of the Original Synthetic Warehouse Agreement, the Fund Counterparties were obligated to pay UBS for any and all losses suffered on the CDS Portfolio.

43. The Original Engagement Letter expired by its terms on August 15, 2007 without a securitization occurring. The Original Warehouse Agreements expired on the same date in accordance with their respective terms.

44. As of August 15, 2007, the Warehouse Assets in the Warehouse Facility had lost in excess of \$86 million in value. Although they had sufficient capital to do so, Highland Capital and the Fund Counterparties failed and refused to pay UBS what it was owed under the Original Warehouse Agreements.

45. As a result of extensive negotiations as well as representations and warranties made by Highland Capital on its own behalf, and on behalf of the Fund Counterparties as their investment manager, UBS agreed to restructure the terms of the Original Engagement.

B. Highland Capital And The Fund Counterparties Resort To Fraud To Avoid Highland Capital's Obligations To UBS

46. As alleged above, as a result of the termination of the Original Engagement, Highland Capital was directly liable to UBS under the Original Warehouse Agreement for in excess of \$86 million.

47. Between August 2007 and March 14, 2008, UBS, Highland Capital and the Fund Counterparties had discussions and negotiations concerning a restructuring of the terms of the Original Engagement. Those negotiations resulted in agreements to restructure the Original Engagement (the "Restructured Transaction"), including a release by UBS of its claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement. (The terms of the Restructured Transaction are set forth in the Engagement Letter and Warehouse Agreements described below (collectively, the "Agreements"), which are annexed hereto as Exhibits D, E and F, respectively.)

48. During the course of negotiations and before March 14, 2008, Highland Capital and Fund Counterparties made several material misrepresentations to UBS concerning the creditworthiness of the Fund Counterparties. Dondero, Highland Capital and the Fund Counterparties also failed to disclose to UBS information which would have been material to UBS's decision to enter the Restructured Transaction ("Omissions," as defined above). As Highland Capital and the Fund Counterparties knew, UBS reasonably relied upon those material misrepresentations and, due to the Omissions, a misstated assessment of the Fund Counterparties, all to its detriment in deciding whether to enter the Restructured Transaction. UBS reasonably and justifiably relied on these misrepresentations and Omissions of facts and information that were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS reasonably believed that Highland Capital and the Fund Counterparties would not provide it with false, incomplete or otherwise misleading information about the Fund Counterparties' finances and assets as it in fact did.

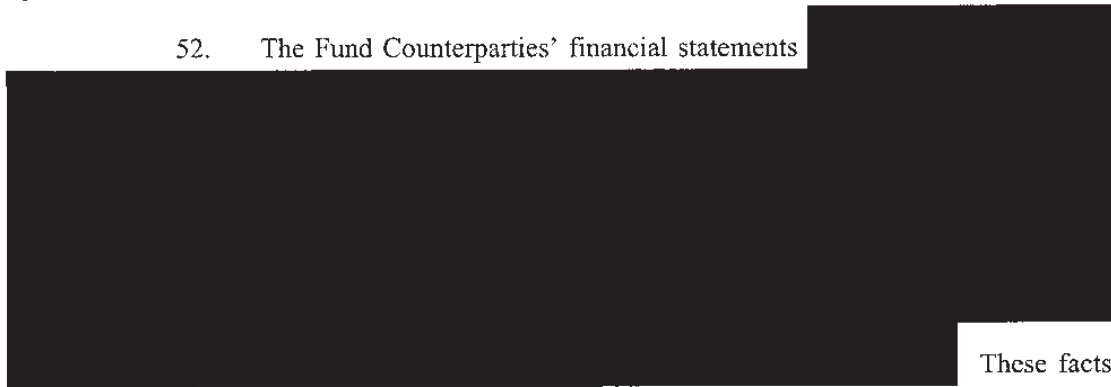
49. For example, on or about December 28, 2007, to induce UBS to enter the Restructured Transaction and related Agreements, Gibran Mahmud of Highland Capital sent SOHC financial statements to UBS. On or about January 29, 2008, UBS requested additional financial information related to SOHC. Later that same day, to induce UBS to enter the Restructured Transaction and related Agreements, Phil Braner of Highland Capital emailed UBS a copy of SOHC's Statement of Financial Condition, dated December 31, 2007.

50. As described with more particularity below, the SOHC financial information that Highland Capital and the Fund Counterparties provided to UBS, which Highland Capital was responsible for preparing, was materially false and misleading. Highland

Capital and the Fund Counterparties knew that UBS would rely upon SOHC's financial information in connection with deciding whether to agree to the Restructured Transaction and the terms of the Agreements being negotiated.

51. On or about February 4, 2008, Matt Killebrew of Highland Capital provided UBS with financial reports via email that reflected financial summaries, and aggregate valuations for CDO Fund's assets as of December 31, 2007. On or about March 4, 2008, Mr. Killebrew sent UBS similar reports for the period ended January 31, 2008. As described with more particularity below, these financial reports, which Highland Capital prepared, also were materially false and misleading. Highland Capital and the Fund Counterparties knew that UBS would rely upon CDO Fund's financial information in connection with deciding whether to agree to the Restructured Transaction and the terms of the Agreements being negotiated.

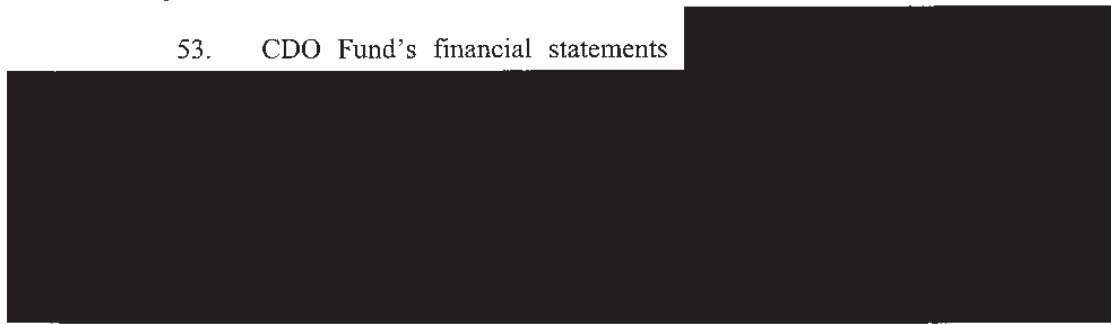
52. The Fund Counterparties' financial statements



These facts

and information were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties.

53. CDO Fund's financial statements



[REDACTED]

54. Similarly, Highland Capital and the Fund Counterparties concealed from UBS the fact that the Fund Counterparties

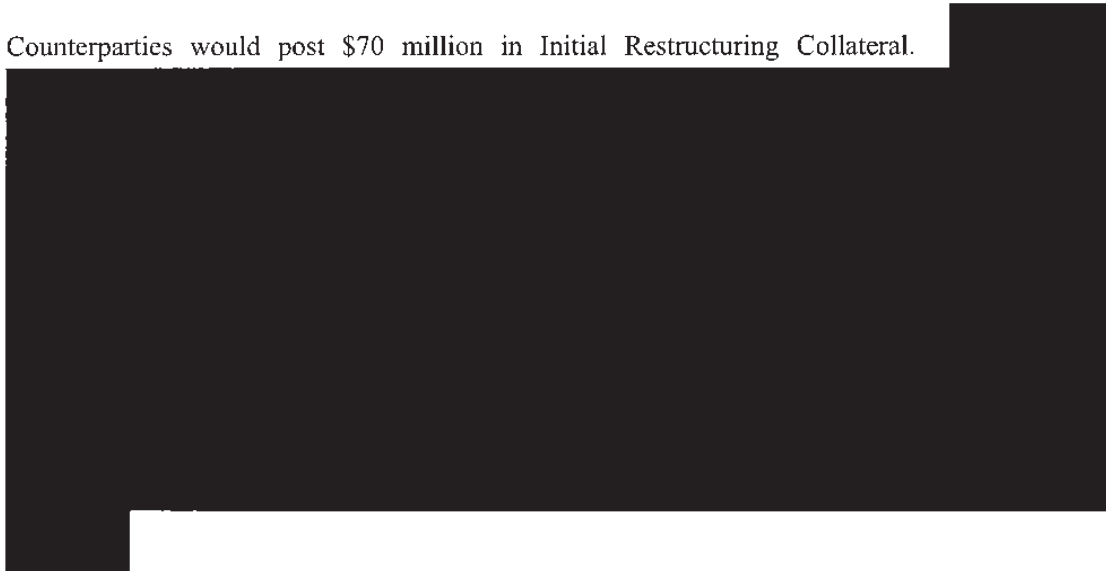
[REDACTED]

55. [REDACTED]



56. During the course of negotiations concerning the restructuring, UBS also insisted that the Fund Counterparties have the ability to post \$70 million in cash and securities as collateral, which would be held at State Street Bank (the “Initial Restructured Transaction Collateral”), and in which UBS would hold a security interest. The Fund Counterparties’ ability to do so using their own assets was qualitatively and quantitatively material to UBS. Among other things, it demonstrated the strength of their balance sheets, and by extension, their ability to satisfy future obligations to UBS.

57. Highland Capital and the Fund Counterparties agreed that the Fund Counterparties would post \$70 million in Initial Restructuring Collateral.



58.

59.

As the Fund Counterparties'

investment manager, Highland Capital maintained the Fund Counterparties' accounting records,
and knew

Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to believe, and reasonably did not believe, that Highland Capital would provide it with false, incomplete or otherwise misleading information about

60.

[REDACTED]

It also

would have drawn into question the Fund Counterparties' liquidity.

[REDACTED]

61. But for Dondero's, Highland Capital's and the Fund Counterparties' false and misleading statements and Omissions concerning the Fund Counterparties' finances and assets, [REDACTED], UBS would not have entered into the Restructured Transaction or the Agreements that memorialized its terms. Given the Fund Counterparties' weak credit quality, additional adverse information about their collective or individual creditworthiness would have deterred UBS from going forward with the Restructured Transaction and putting more assets at risk. These misrepresentations and Omissions proximately caused harm to UBS.

62. UBS would not have entered into a transaction with parties that made misrepresentations as Highland Capital and the Fund Counterparties did. UBS also would not have agreed to release its valuable claims arising out of the Original Engagement under such circumstances. Because of, and in reliance on, the false and misleading information about the Fund Counterparties provided by Dondero, Highland Capital and the Fund Counterparties, UBS entered into the Restructured Transaction memorialized in the Agreements. Because each of the misrepresentations and Omissions identified above disguised the Fund Counterparties' inability

to satisfy their obligations to UBS, the misrepresentations and Omissions proximately caused harm to UBS.

C. The Restructured Transaction Agreements

1. The Engagement Letter

63. On or about March 14, 2008, the parties reached agreement on the terms of a restructured engagement, which were memorialized in a new engagement letter (the “Engagement Letter,” annexed hereto as Exhibit D). Pursuant to the Engagement Letter, Highland Capital re-engaged UBSS to act as placement agent in the event that market conditions improved, and the parties could go forward with securitizing the Warehouse Assets already held by UBS in the Warehouse Facility. UBS agreed to continue holding the Warehouse Assets in the Warehouse Facility, which had a notional value of approximately \$818 million.

64. Under the terms of the Engagement Letter, UBS released claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement.

2. The Restructured Warehouse Agreements

65. On March 14, 2008, UBSS, the Fund Counterparties and Highland Capital also entered into a cash warehouse agreement (the “Cash Warehouse Agreement”), pursuant to which UBSS agreed to continue to hold the Cash Portfolio. (A true and correct copy of the Cash Warehouse Agreement is annexed hereto as Exhibit E.)

66. UBS AG, the Fund Counterparties and Highland Capital also entered into a synthetic warehouse agreement, dated as of March 14, 2008 (the “Synthetic Warehouse Agreement,” and together with the Cash Warehouse Agreement, the “Warehouse Agreements”), pursuant to which UBS AG agreed to continue warehousing credit protection that it sold, *i.e.*, the CDS Portfolio. (A true and correct copy of the Synthetic Warehouse Agreement is annexed hereto as Exhibit F.)

67. Section 13(B) of the Cash Warehouse Agreement and § 11(B) of the Synthetic Warehouse Agreement make Highland Capital liable for losses, including losses in the Warehouse Facility, by reason of acts or omissions constituting bad faith, willful misconduct, or gross negligence.

68. Under § 12 of the Synthetic Warehouse Agreement, the Fund Counterparties agreed to transfer to State Street the Initial Restructuring Collateral to partially secure their respective obligations to UBS under the Warehouse Agreements. Annex C to the Synthetic Warehouse Agreement identified the six assets that the Fund Counterparties purportedly transferred to State Street to satisfy their Initial Restructuring Collateral obligations, along with \$20 million in cash.

69. The Warehouse Agreements also contained releases whereby UBS agreed to release claims it had against Highland Capital and the Fund Counterparties for losses arising out of the Original Engagement.

D. Highland Capital Uses Its Control Over The Fund Counterparties To Dissipate Their Assets Without Regard For The Fund Counterparties' Growing Obligations To UBS

70. Almost immediately after the Restructured Transaction Agreements were executed, Highland Capital and the Fund Counterparties knowingly began to dissipate the Fund Counterparties' assets and make it impossible for the Fund Counterparties to ever repay UBS what they owed. Highland Capital and the Fund Counterparties did so at various times when the Fund Counterparties owed UBS hundreds of millions of dollars.

71. For example, on or about March 26, 2008, just days after entering the Restructured Transaction, Highland Capital caused certain SOHC assets to be encumbered by entering into a transaction with Barclays Bank, plc. ("Barclays"). At or around the same time, CDO Fund was negotiating financing arrangements with Morgan Stanley & Co. International

Ltd. and Highland Capital IV SPC, whereby it granted a security interest in its assets to those entities. By granting a security interest in the Fund Counterparties' assets to other creditors, Highland Capital unfairly and improperly reduced the assets available to satisfy the Fund Counterparties' obligations to UBS in bad faith and in violation of UBS's rights.

72. Similarly, on or about April 2, 2008, Highland Capital advised UBS that CDO Fund had recently monetized a \$129 million long position in SunCom Wireless. When Highland Capital and CDO Fund subsequently provided UBS with additional financial information about CDO Fund, however, UBS discovered that Highland Capital had caused CDO Fund to transfer approximately \$100 million of the cash proceeds from the SunCom Wireless sale out of CDO Fund.

73. By improperly removing such a substantial amount of cash from CDO Fund, Highland Capital interfered in bad faith with CDO Fund's ability to satisfy its steadily increasing financial obligations to UBS. In particular, in or around May 2008, when the cash proceeds from the SunCom Wireless position were siphoned off, the Fund Counterparties owed UBS in excess of \$166 million related to losses in the Warehouse Facility, approximately 50% of which CDO Fund was obligated to pay.

74. Highland Capital also repeatedly caused SOHC's cash to be transferred by Highland Financial. In particular, during the first five months of 2008, SOHC's cash position was reduced by over \$10 million at a time when its obligations to UBS were increasing substantially.

E. In the Fall of 2008, Losses Mount And The Fund Counterparties Face Collateral Calls From Creditors Including UBS That They Cannot Meet Despite Highland Capital's Belated Efforts To Do So [REDACTED]

75. Under the terms of the Warehouse Agreements, the Fund Counterparties were required to post additional collateral with UBS if the combined market value of (a) the Warehouse Assets and (b) the Initial Restructured Transaction Collateral, declined below a certain amount.

76. By September 2008, losses in the Warehouse Facility had increased significantly. At the same time, the value of the Initial Restructuring Collateral had declined substantially, as had the value of the assets held by the Fund Counterparties.

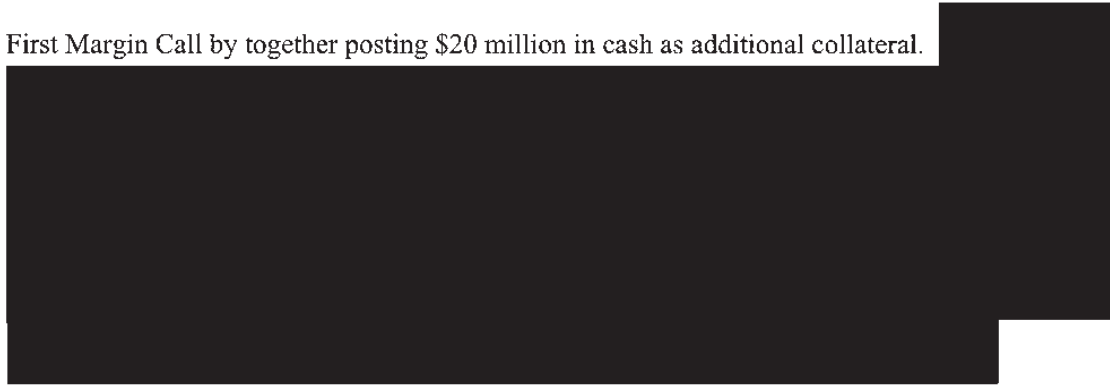
77. Highland Capital was desperate to avoid a default by any of its affiliates, including the Fund Counterparties. If a Highland Capital affiliate defaulted on its obligations to a creditor, Highland Capital's reputation in the investment community would be damaged, and there was a risk that Highland Capital's business would collapse. Highland Capital feared that a public default would lead investors in Highland Capital's hedge fund family to withdraw their capital, and lead creditors to take aggressive actions to protect themselves, including foreclosing on collateral and aggressively enforcing their contractual rights.

1. The First Margin Call

78. On or about September 16, 2008, as losses in the Warehouse Facility continued to grow, UBS began to exercise its contractual rights and make margin calls demanding additional collateral from the Fund Counterparties. Specifically, UBS notified Highland Capital and the Fund Counterparties that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund Counterparties were each required to post \$10 million in cash or equivalent securities (the "First Margin Call").

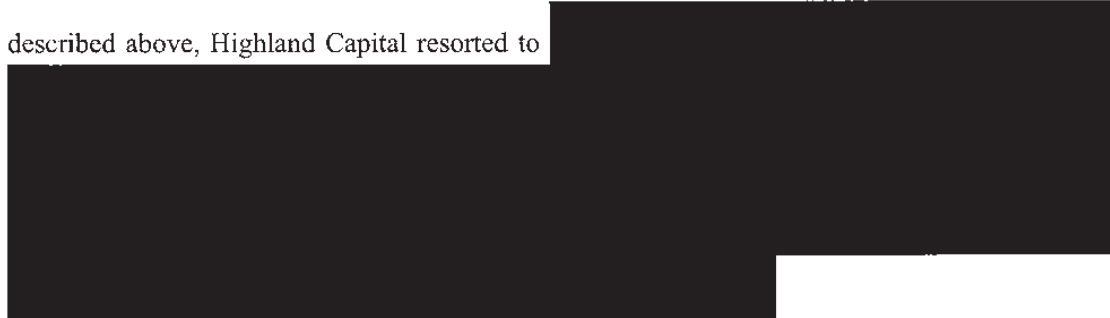
79. Because Highland Capital had routinely drained cash from the Fund Counterparties, the Fund Counterparties lacked the liquidity to meet UBS's demands using their own assets.

80. On or about September 19, 2008, the Fund Counterparties satisfied the First Margin Call by together posting \$20 million in cash as additional collateral.



2. UBS Is Harmed By Highland Capital's Response To The Fund Counterparties' Liquidity Crisis

81. In the wake of the First Margin Call, the Fund Counterparties remained starved for liquidity. Still desperate to avoid defaults to creditors and the consequences described above, Highland Capital resorted to



82. Highland Capital and the individuals that directed the Fund Counterparties knew that they had caused the Fund Counterparties to become incapable of satisfying their obligations to all of their respective creditors when they came due, and that they were insolvent or, at the very least, within the zone of insolvency.

83. For example, on or about September 26, 2008, Dondero and Highland

Capital improperly

84.

85.

86.

87.

88.

[REDACTED] Highland Capital executed this plan at UBS's expense to protect their substantial personal stake in Highland Financial and prevent negative publicity associated with defaulting [REDACTED]

[REDACTED] Implementing this plan, however, caused SOHC (and its alter ego, Highland Financial) to improperly and in bad faith breach duties and obligations to UBS.

89. [REDACTED]

[REDACTED] SOHC's expected obligations to UBS were well in excess of \$250 million, which were due and owing to UBS no later than March 14, 2009. Thus, by [REDACTED], Highland Capital and the Fund Counterparties made a fraudulent conveyance and interfered in bad faith with the Fund Counterparties' ability to meet their contractual obligations to UBS.

90. Given the state of the financial markets at the time, Highland Capital, Highland Financial and SOHC had no expectation that SOHC would be able to satisfy its obligations to UBS when they came due. [REDACTED]

91. [REDACTED]

3. The Second Margin Call

92. On or about October 21, 2008, UBS notified Highland Capital that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund Counterparties each owed another \$10 million (the “Second Margin Call”).

93. In response to the Second Margin Call, Highland Capital offered UBS numerous assets as collateral. UBS rejected those offers for various business-related reasons. As UBS would later learn, however, at the time Highland Capital was offering the assets to UBS, the Fund Counterparties did not own them.

94. On or about October 24, 2008, the Fund Counterparties satisfied the Second Margin Call by together posting assets with a notional value of \$49.97 million (but a market value of approximately \$20 million), with the understanding that UBS would authorize State Street to return the securities if and when the Fund Counterparties were able to replace those securities with \$20 million in cash. As UBS would later learn,

[REDACTED]

95. Moreover, at the same time that Highland Capital was telling UBS that the Fund Counterparties did not have sufficient cash assets to meet the Second Margin call,

[REDACTED]

4. The Third Margin Call

96. On or about November 7, 2008, UBS notified Highland Capital and the Fund Counterparties that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund

Counterparties had an obligation to post another \$10 million as collateral (the “Third Margin Call”).

97. On or about November 11, 2008, Highland Capital and the Fund Counterparties offered to post various securities to satisfy the Third Margin Call. In response to the Third Margin Call, Phil Braner of Highland Capital emailed UBS a list of proposed collateral including eight securities with a purported market value of approximately \$20 million (i.e., twice the amount of cash due to satisfy the Third Margin Call).

98. Pursuant to the Warehouse Agreements, UBS was authorized to reject proposed collateral. UBS determined that the proposed additional collateral offered by Highland Capital and the Fund Counterparties was unacceptable. On or after November 13, 2008, UBS formally rejected the offered securities, and requested that the Fund Counterparties provide cash or cash equivalent collateral to satisfy their obligations under § 12(C) of the Synthetic Warehouse Agreement.

99. UBS would later learn that 



100. When UBS confronted Highland Capital about this issue Mr. Braner of Highland Capital explained that 





F. Termination Of The Agreements And Demand For Payment Of Losses

101. As of December 3, 2008, the Fund Counterparties still had not met the Third Margin Call in accordance with § 12(C) of the Synthetic Warehouse Agreement. This failure resulted in UBS's declaration of a termination date ("Termination Date") under the Agreements.

102. On December 3, 2008, UBS delivered a letter (the "Termination Date Letter") to Highland Capital and the Fund Counterparties notifying them of such failure and the occurrence of a Termination Date under each Agreement. (A true and correct copy of the Termination Date Letter is annexed hereto as Exhibit G.)

103. Sections 5 and 7 of the Cash Warehouse Agreement provided that if the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to March 14, 2009, UBSS could, in its sole discretion, retain any of the securities in the Warehouse Facility or sell such securities to one of UBSS's affiliates or an unaffiliated party.

104. Pursuant to the terms of the Agreements, if the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to March 14, 2009, each of the Fund Counterparties was obligated to pay to UBS its pro rata share of any market value losses on the Warehouse Assets, which UBS determined it had experienced and so notified Highland Capital and the Fund Counterparties.

105. On December 19, 2008, UBSS delivered a letter (the "Cash Warehouse Demand Letter") to Highland Capital and the Fund Counterparties demanding payment for its

losses. (A true and correct copy of the Cash Warehouse Demand Letter is annexed hereto as Exhibit H.) UBSS demanded that Highland Capital and the Fund Counterparties wire that required amount to UBSS no later than 5:00 pm on December 24, 2008 (i.e., the third business day after the date of the Cash Warehouse Demand Letter) (the “Final Payment Date”). Highland Capital and the Fund Counterparties failed to make the required payment to UBSS.

106. The Synthetic Warehouse Agreement provided that in the event the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to March 14, 2009, the Fund Counterparties would be collectively responsible for 100% of the aggregate amount of losses on the CDS Portfolio and each of the Fund Counterparties would pay, after notice of such amount due from UBS, its pro rata share of such amount to UBS within three business days.

107. On December 19, 2008, UBS AG delivered a letter (the “Synthetic Warehouse Demand Letter”) to Highland Capital and the Fund Counterparties demanding payment for its losses. (A true and correct copy of the Synthetic Warehouse Demand Letter is annexed hereto as Exhibit I.) UBS AG demanded that the Highland Capital and the Fund Counterparties wire the required amount to UBS AG no later than 5:00 PM on the Final Payment Date (i.e., December 24, 2008 – the third business day after the date of the Synthetic Warehouse Demand Letter). Highland Capital and the Fund Counterparties failed to make the required payment to UBS AG.

G. Notice Of Failure to Pay, Auction And Final Accounting Letter

108. On January 5, 2009, UBS notified Highland Capital and the Fund Counterparties of the failure to make the requisite payments when due pursuant to the Agreements and the applicable demand letters. On or about January 16, 2009, in connection

with unwinding the Warehouse Facility, UBS conducted the auction contemplated by the Warehouse Agreements.

109. On or about March 19, 2009, UBS delivered a letter to Highland Capital and the Fund Counterparties concerning a final accounting concerning the auction and the losses in the Warehouse Facility. UBS determined that Highland Capital and the Fund Counterparties owed it \$686,853,290.26.

H. Highland Capital [REDACTED]

110. [REDACTED]

111. In December 2008, immediately after UBS terminated the Restructured Transaction, Dondero and Highland Capital [REDACTED]

112. On or about February 24, 2009, UBS commenced this action against Highland Capital and the Fund Counterparties. At the time, SOHC and Highland Financial, as its alter ego, owed UBS approximately \$345 million.

113. Undeterred, on or about March 17, 2009, Dondero and Highland Capital [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

114.

115. As a result, Highland Capital (a) further interfered in bad faith with UBS's contractual rights and the Fund Counterparties' contractual obligations under the Warehouse Agreements, thereby breaching the covenants of good faith and fair dealing inherent in the Warehouse Agreements; and

116.

117.

[REDACTED]

FIRST CAUSE OF ACTION
(Fraudulent Conveyances)

118. UBS repeats and realleges the allegations set forth in paragraphs I through 117 of this Complaint as if fully set forth herein.

119. In the Fall of 2008 and in March 2009, Highland Capital [REDACTED]

[REDACTED]

120.

[REDACTED]

121.

[REDACTED]

122.

123.

124.

125.

126.

[REDACTED]

127.

[REDACTED]

128.

[REDACTED]

129.

[REDACTED]

130.



131. As a result of the foregoing fraudulent conveyances and defendant Crusader Holding Corp.'s involvement therein, the Fund Counterparties and SOHC's alter ego, Highland Financial, were unable to satisfy their obligations to UBS. As a result of the foregoing fraudulent conveyances, UBS has been harmed in an amount to be determined at trial.

SECOND CAUSE OF ACTION
(Tortious Interference With Contractual Relations)

132. UBS repeats and realleges the allegations set forth in paragraphs 1 through 131 of this Complaint as if fully set forth herein.

133. The Agreements are valid and binding contracts.

134. The parties agreed that UBS would not bear the risk of any losses in connection with the Restructured Transaction. As a direct result of the Fund Counterparties' breach of the Warehouse Agreements, UBS suffered no less than \$686,853,290.26 in damages. Under the terms of the Warehouse Agreements, the Fund Counterparties' obligation to pay UBS for losses in the Warehouse Facility expressly survived the termination of the Agreements.

135. Highland Capital knew of the Agreements, and was familiar with their terms, including the Fund Counterparties' obligations to UBS thereunder. The Affiliated Transferees, including Crusader Holding Corp., also knew of the Agreements, and their terms, including the Fund Counterparties' obligations to UBS thereunder.

136. Highland Capital and the Affiliated Transferees, including defendant Crusader Holding Corp., intentionally and improperly caused and ensured a breach of the Warehouse Agreements by the Fund Counterparties, thereby tortiously interfering with UBS's rights under the Agreements.

137. Specifically, in 2008 and 2009 defendant Crusader Holding Corp. wrongfully participated and caused the improper and fraudulent asset transfers, payments, distributions and dividends described above, and thereby tortiously interfered with UBS's contractual relationship with the Fund Counterparties by knowingly impairing UBS's contractual right under the Warehouse Agreements to be reimbursed by the Fund Counterparties for the losses on the Warehouse Assets. [REDACTED]

138. Highland Capital and the Affiliated Transferees, including defendant Crusader Holding Corp., [REDACTED]

139. Highland Capital and the Affiliated Transferees, including defendant Crusader Holding Corp., engaged in the foregoing unlawful and improper conduct, and tortiously interfered with UBS's contractual rights under the Warehouse Agreements, for their own improper personal gain by knowingly violating UBS's rights and making it impossible for the Fund Counterparties to perform under the Warehouse Agreements. In particular, the foregoing

conduct constitutes independent torts and predatory acts directed at UBS for the personal gain of defendant Crusader Holding Corp., its parent, the Crusader Fund, Highland Capital and its principals.

140. As a direct and proximate result of defendant Crusader Holding Corp.'s tortious interference with UBS's contractual rights under the Agreements, UBS has suffered damages in an amount to be determined at trial. Had defendant Crusader Holding Corp., Highland Capital and the other Affiliated Transferees not tortiously interfered with UBS's contractual rights, the Fund Counterparties would have been able to make payments to UBS of the amount they owed to UBS under the Warehouse Agreements.

RELIEF DEMANDED

WHEREFORE, plaintiffs UBSS and UBS AG demand judgment:

(a) On the first cause of action: (i) declaring that the dispositions of the Fund Counterparties' and Highland Financial's assets involving defendant Crusader Holding Corp., constituted fraudulent conveyances; (ii) appointing a receiver over Crusader Holding Corp.; (iii) directing that a full accounting be had of Crusader Holding Corp.'s affairs and finances; (iv) imposing a constructive trust over Crusader Holding Corp.'s assets until such an accounting is completed; and/or (v) awarding UBS damages in an amount to be determined at trial, but no less than the value of the assets fraudulently and improperly transferred, or, alternatively, directing that Crusader Holding Corp. and its partners, members or shareholders return any assets or consideration received from Highland Financial or the Fund Counterparties, directly or indirectly, as distributions, dividends, consideration, compensation, fees, interest, principal or otherwise, between March 14, 2008 and the present;

(b) On the second cause of action, declaring that Crusader Holding Corp. is liable for tortiously interfering with UBS's contractual rights under the Warehouse Agreements, and awarding UBS an amount to be determined at trial;

(c) Awarding UBS punitive damages in an amount to be determined at trial;

(d) Granting UBS its costs and disbursements, including reasonable attorneys' fees and expenses of this action;

(e) Granting UBS pre-judgment interest; and

(f) Granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
September 26, 2011

CADWALADER, WICKERSHAM & TAFT LLP

By: /s/ Gregory A. Markel
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UBS AG, London Branch*

EXHIBIT 9

(pending ruling on motion to seal)

EXHIBIT 10

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

UBS SECURITIES LLC and UBS AG, LONDON BRANCH,

Plaintiffs,

-against-

HIGHLAND CAPITAL MANAGEMENT, L.P., HIGHLAND
CDO OPPORTUNITY MASTER FUND, L.P. and
HIGHLAND SPECIAL OPPORTUNITIES HOLDING
COMPANY,

Defendants.

Index No. 650097/2009
Filed 1/24/2009

COMPLAINT

Plaintiffs, UBS Securities LLC (“UBSS”) and UBS AG, London Branch (“UBS AG”) (collectively, “UBS”), for their Complaint against defendants Highland Capital Management, L.P. (“Highland Capital”), Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”) and Highland Special Opportunities Holding Company (“SOHC,” and collectively with Highland Capital and CDO Fund, “Highland” or “Defendants”) allege as follows:

NATURE OF THE ACTION

1. This action for indemnification and breach of contract arises out of substantial losses incurred by UBS in connection with a failed proposed collateralized debt obligation transaction to be sponsored by Highland Capital (the “CDO Transaction”), which contemplated that UBS would acquire and warehouse certain securities and assume certain obligations under credit default swaps, with the expectation that special purpose entities would acquire those securities and assume those obligations from UBS, and issue debt and equity securities secured by those securities and obligations. The special purpose entities were never created and the CDO Transaction never occurred. As a result, UBS has suffered losses of no less than \$745 million as

001065

before it was completed. CDO Fund and SOHC breached their agreement to provide the requisite collateral to UBS.

5. Specifically, under the Agreements, UBS acquired and held a portfolio of securities (the "Portfolio of Securities") and a portfolio of certain other financial instruments known as "credit default swaps" (the "Portfolio of Credit Default Swaps," and together with the Portfolio of Securities, the "Portfolios") for the purpose of transferring those Portfolios to certain special purpose entities the CDO Transaction.

6. Under the Agreements, UBS was to calculate losses on the Portfolios resulting from a decline in the market value of each of those portfolios and determine, pursuant to the Agreements, what additional amount of collateral ("Additional Collateral") was required based on those losses. Pursuant to the Agreements, the amount of Additional Collateral would be an agreed portion of the increase in the amount of losses. Pursuant to the Agreements, the Funds were required, upon demand, to deposit into a designated account (the "Designated Account") approved securities and/or cash funds as Additional Collateral to partially secure their obligations under the Agreements.

7. Pursuant to the Agreements, in November 2008, UBS demanded that the Funds transfer Additional Collateral of \$10 million to the Designated Account. The Funds failed to meet that demand. Accordingly, UBS (after proper notice as described below) terminated the Agreements, and determined the aggregate amount of losses on the Portfolios for which it was entitled under the Agreements to compensation from Highland to be at least \$745 million. This loss amount was determined pursuant to the Agreements based on the market values of the Portfolios and any losses incurred with respect to the Portfolios.

8. The Funds have failed to deposit the required amount of Additional Collateral into the Designated Account and pay to UBS the amount of losses it has incurred in connection

with the Portfolios as required by the Agreements. Highland Capital has failed to indemnify UBS for these incurred losses as it is required to do pursuant to the Engagement Letter. Accordingly, UBS is entitled to recover its losses of at least \$745 million, plus costs and expenses as described below, less the net proceeds of the sale or liquidation of the collateral held in the Designated Account as described below.

THE PARTIES

Plaintiffs

9. Plaintiff UBS AG is a banking corporation organized under the laws of Switzerland with its principal place of business at Finsbury Avenue, London, United Kingdom

10. Plaintiff UBSS is a limited liability company organized under the laws of Delaware with its principal places of business at 677 Washington Blvd., Stamford, Connecticut, and 299 Park Avenue, New York, New York.

Defendants

11. Defendant Highland Capital Management, L.P. (“Highland Capital”) is a limited partnership organized under the laws of the State of Delaware, with its principal place of business at 13455 Noel Road, Suite 800, Dallas, Texas 75240, and an office at 9 West 57th Street, New York, New York.

12. Defendant Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”) is a Bermuda limited partnership, with its principal place of business at 52 Reid Street, Hamilton, Bermuda.

13. Defendant Highland Special Opportunities Holding Company (“SOHC”) is a company organized under the laws of the Cayman Islands, with its offices at Walker House, PO Box 908GT, Mary Street, George Town, Grand Cayman, Cayman Islands.

JURISDICTION AND VENUE

14. Venue is proper under CPLR § 503. Plaintiffs each have a place of business in New York County.

15. Jurisdiction and Venue are also proper in this Court because the parties agreed to submit to the jurisdiction of this Court in connection with any dispute related to the agreements at issue.

FACTS

The Original Transaction

16. In April 2007, UBSS and Highland Capital entered into an engagement letter, pursuant to which UBSS was engaged to act as the exclusive financial arranger and placement agent for a collateralized debt obligation transaction (the “Original Transaction”). In connection with the anticipated Original Transaction, UBSS, UBS AG, Highland Capital (as “Servicer”), the CDO Fund and SOHC entered into two warehouse agreements.

17. The agreements for the Original Transaction expired in early 2008 because the anticipated Original Transaction had not taken place. The parties agreed to try to restructure the transaction.

The Restructured Transaction

A. The Engagement Letter

18. As part of the restructuring, the parties had negotiations leading to an agreement on the terms of a new transaction, and entered into a new engagement letter (the “Engagement Letter,” annexed hereto as Exhibit A). Pursuant to the Engagement Letter, UBSS was engaged to act as placement agent in a collateralized debt obligation transaction in which special purpose entities would acquire the Portfolios from UBS and issue debt and equity securities secured by those Portfolios (the “Restructured Transaction”).

19. Pursuant to Section 3(c) of the Engagement Letter, UBSS and Highland Capital agreed that the CDO Fund and SOHC would bear 100% of the risk of losses experienced in the Portfolios, including losses experienced in the event the Restructured Transaction failed to occur before the termination of the Agreements.

20. Pursuant to Section 6 and Schedule I to the Engagement Letter, Highland Capital agreed to indemnify and hold harmless UBS from any losses, costs, claims, damages, liabilities and expenses based upon, relating to, arising out of, or in connection with any breach or alleged breach by Highland Capital or any of its affiliates, including the CDO Fund and SOHC, of any agreement, representation, covenant or warranty in the Engagement Letter.

21. In accordance with the terms of the Engagement Letter, the parties entered into warehouse agreements.

B. The Warehouse Agreements

22. On March 14, 2008, UBSS, the CDO Fund, SOHC and Highland Capital entered into a cash warehouse agreement (the "Cash Warehouse Agreement"), pursuant to which UBSS agreed to purchase and hold the Portfolio of Securities for the purpose of selling such Portfolio to special purpose entities for the Restructured Transaction. (A true and correct copy of the Cash Warehouse Agreement is annexed hereto as Exhibit B).

23. UBS AG, the CDO Fund, SOHC and Highland Capital also entered into a synthetic warehouse agreement, dated as of March 14, 2008 (the "Synthetic Warehouse Agreement," and together with the Cash Warehouse Agreement, the "Warehouse Agreements"), pursuant to which UBS AG sold credit protection on the Portfolio of Credit Default Swaps for the purpose of ultimately transferring its obligations under such Portfolio to special purpose entities for the Restructured Transaction. (A true and correct copy of the Synthetic Warehouse Agreement is annexed hereto as Exhibit C).

24. Under Section 12 of the Synthetic Warehouse Agreement, the CDO Fund and SOHC agreed to transfer to the Designated Account maintained at State Street Bank and Trust Company cash and/or certain securities to be approved by UBS as collateral to partially secure their respective obligations to UBSS and UBS AG under the Warehouse Agreements as explained below.

C. Margin Call Notices

25. As a result of a decline in the market value of each of the Portfolios and the collateral held in the Designated Account, and an increase in payments and losses relating to each of the Portfolios, on September 16 and October 21, 2008, UBS notified Defendants pursuant to Section 12(C) of the Synthetic Warehouse Agreement, that each of the CDO Fund and SOHC was required to deposit its pro rata share of Additional Collateral of \$10 million into the Designated Account. In response, the CDO Fund and SOHC together deposited \$20 million into the Designated Account by depositing cash and causing certain securities approved by UBSS and UBS AG to be credited to the Designated Account.

26. Pursuant to Section 12(C) of the Synthetic Warehouse Agreement, on November 7, 2008, UBS notified the Defendants that each of the CDO Fund and SOHC was required to deposit its pro rata share of Additional Collateral of \$10 million into the Designated Account within 2 business days.

27. In response to this notice, on November 11, 2008, CDO Fund and SOHC offered certain securities to be credited to the Designated Account. Pursuant to the Warehouse Agreements, UBS is not required to accept any securities unless those securities are approved by UBS. On or after November 13, 2008, UBS rejected the offered securities, and requested that the CDO Fund and SOHC provide cash or cash equivalent collateral to satisfy their obligations under Section 12(C) of the Synthetic Warehouse Agreement.

D. Termination of the Agreements and Demand for Payment of Aggregate Collateral Losses and CDO Losses

28. As of December 3, 2008, the CDO Fund and SOHC had failed to deposit cash and/or securities approved by UBS into the Designated Account pursuant to Section 12(C) of the Synthetic Warehouse Agreement. This failure resulted in a termination date (“Termination Date”) under the Agreements.

29. On December 3, 2008, UBS delivered a letter (the “Termination Date Letter”) to the Defendants notifying them of such failure and the occurrence of a Termination Date under each Agreement. (A true and correct copy of the Termination Date Letter is annexed hereto as Exhibit D).

30. Section 5 and Section 7 of the Cash Warehouse Agreement provide that if the closing date of the Restructured Transaction fails to occur on or prior to the Termination Date, UBSS may, in its sole discretion, retain any of the securities in the Portfolio of Securities or sell such securities to one of UBSS’s affiliates or an unaffiliated party.

31. Pursuant to the terms of the Agreements, if the closing date of the Restructured Transaction fails to occur on or prior to the Termination Date, each of the CDO Fund and SOHC shall pay to UBS its pro rata share of any market value losses on the Portfolio of Securities, which UBS determines it has experienced and so notifies Highland. The definition of market value (under the Cash Warehouse Agreement) provides that any determination of the market value of the Portfolio of Securities (including any determination of any cost, fee or expense that would be incurred in consideration of a sale thereof) made by or on behalf of UBS shall be conclusive, absent manifest error.

32. On December 19, 2008, UBSS delivered a letter (the “Cash Warehouse Demand Letter”) to the Defendants stating that, pursuant to the Agreements, the CDO Fund and

SOHC were required to pay to UBSS the amount of \$157,949,885.47 representing the aggregate amount of losses with respect to the Portfolio of Securities (the "Cash Warehouse Required Payment Amount") allocable to the CDO Fund and SOHC on a pro rata basis plus approximately \$75,000 in estimated costs. (A true and correct copy of the Cash Warehouse Demand Letter is annexed hereto as Exhibit E). UBSS demanded that the CDO Fund and SOHC pay the Cash Warehouse Required Payment Amount to UBSS no later than 5:00 pm on December 24, 2008 (i.e., the third business day after the date of the Cash Warehouse Demand Letter) (the "Final Payment Date").

33. Highland has not paid the Cash Warehouse Required Payment Amount to UBSS.

34. The Agreements provide that in the event the closing date of the Restructured Transaction fails to occur on or prior the Termination Date, the CDO Fund and SOHC shall collectively be responsible for 100% of the aggregate amount of losses on the Portfolio of Credit Default Swaps and each of the CDO Fund and SOHC shall pay, after notice of such amount due from UBS, its pro rata share of such amount to UBS within 3 business days.

35. On December 19, 2008, UBS AG delivered a letter (the "Synthetic Warehouse Demand Letter") to the Defendants stating that, pursuant to the Agreements, the CDO Fund and SOHC were required to pay the amount of \$587,357,060.59 representing the aggregate amount of losses with respect to the Portfolio of Credit Default Swaps (the "Synthetic Warehouse Required Payment Amount") allocable to the CDO Fund and SOHC on a pro rata basis. (A true and correct copy of the Synthetic Warehouse Demand Letter is annexed hereto as Exhibit F). UBS AG demanded that the CDO Fund and SOHC pay the Synthetic Cash Warehouse Required Payment Amount to UBS AG no later than 5:00 PM on the Final Payment Date (i.e., December 24, 2008 -- the third business day after the date of the Synthetic Warehouse Demand Letter) .

36. Highland has not paid the Synthetic Warehouse Required Payment Amount to UBS AG and the required amount of Additional Collateral has not been deposited into the Designated Account.

E. Notice of Failure to Pay

37. On January 5, 2009, UBS notified the Defendants of the failures to pay the Cash Warehouse Required Payment Amount and the Synthetic Warehouse Required Payment Amount when due pursuant to the Agreements and the applicable demand letter.

FIRST CAUSE OF ACTION
(Breach of Contract Under the Agreements
against the CDO Fund and SOHC)

38. Plaintiff UBSS repeats and realleges the allegations set forth in paragraphs 1 through 37 of the Complaint as if fully set forth here.

39. The Agreements are valid and binding contracts.

40. UBSS has performed all of its obligations under the Agreements.

41. Pursuant to the Agreements, each of the CDO Fund and SOHC was required to transfer its pro rata share of an Additional Collateral of \$10,000,000 to the Designated Account within 2 business days of November 7, 2008. The CDO Fund and SOHC failed to make such transfer. The failure to make such transfer is a breach under each Agreement and results in a Termination Date under each Agreement.

42. UBSS demanded that each of the CDO Fund and SOHC pays to it its pro rata share of the amount of losses with respect to the Cash Warehouse Required Payment Amount of \$157,949,885.47, plus approximately \$75,000 in estimated liquidation costs and expenses, by 5 P.M. on the Final Payment Date (i.e., December 24, 2008 – the third business day after the date of the Cash Warehouse Demand Letter). The CDO Fund and SOHC have failed to pay this

amount to UBSS. The failure to pay this amount to UBSS when due under the Agreements is a further breach under the Agreements.

43. By reason of the foregoing, UBSS has suffered and will continue to suffer damages in an amount to be determined at trial, but in no event less than \$157,949,885.47, plus approximately \$75,000 in estimated costs and expenses in connection with any sale of the securities subject to the Agreements, less the net proceeds of the sale or liquidation of the collateral in the Designated Account.

SECOND CAUSE OF ACTION
(Breach of Contract Under the Agreements
against the CDO Fund and SOHC)

44. Plaintiff UBS AG, repeats and realleges the allegations set forth in paragraphs 1 through 43 of the Complaint as if fully set forth here.

45. The Agreements are valid and binding contracts.

46. UBS AG has performed all of its obligations under the Agreements.

47. Pursuant to the Agreements, each of the CDO Fund and SOHC was required to transfer Additional Collateral of \$10,000,000 (on a pro rata basis as set forth in the Warehouse Agreements) to the Designated Account within two business days of November 7, 2008. The CDO Fund and SOHC failed to make this transfer. The failure to make such transfer resulted in a breach and a Termination Date under the each Agreement.

48. Accordingly, UBS AG demanded that each of the CDO Fund and SOHC pay to UBS AG its pro rata share of \$587,357,060.59 by 5 P.M. on the Final Payment Date (i.e., December 24, 2008 – the third business day after the date of the Synthetic Warehouse Demand Letter). No payment has been made. The failure to pay this amount when due under the Agreements is a further breach under the Agreements.

49. By reason of the foregoing, UBS AG has suffered and will continue to suffer damages in an amount to be determined at trial, but in no event less than the losses with respect to the Synthetic Warehouse Required Payment Amount of \$587,357,060.59, plus approximately \$75,000 in estimated costs and expenses in connection with any sale of the securities under the Warehouse Agreements, plus any costs, fees and expenses related to the novation or termination of the Portfolio of Credit Default Swaps.

THIRD CAUSE OF ACTION
(Indemnification Under the Engagement Letter against Highland Capital)

50. Plaintiff UBSS and UBS AG repeat and reallege the allegations set forth in paragraphs 1 through 49 of the Complaint as if fully set forth here.

51. The Engagement Letter is a valid and binding contract.

52. Pursuant to Section 3(c) of the Engagement Letter, UBSS and Highland Capital agreed that the CDO Fund and SOHC would bear 100% of the risk of losses experienced in the Portfolios, including losses experienced in the event the Restructured Transaction failed to occur before the termination of the Agreements.

53. The CDO Fund and SOHC have not borne risk in accordance with Section 3(c) of the Engagement Letter.

54. As a result of this breach, UBS incurred 100% of the risk of losses in the Portfolios and thereby has suffered and will continue to suffer losses and damages in an amount to be determined at trial, but in no event less than \$745,306,946.06, plus costs and expenses, less any net proceeds of the sale or liquidation of the collateral in the Designated Account.

55. Pursuant to Section 6 and Schedule I to the Engagement Letter, Highland Capital agreed to indemnify and hold harmless UBS from any losses, costs, claims, damages, liabilities and expenses based upon, relating to, arising out of, or in connection with any breach

by Highland Capital or any of its affiliates, including the CDO Fund and SOHC, of any agreement, representation, covenant or warranty in the Engagement Letter.

56. Highland Capital has failed to indemnify UBS for any of the losses UBS has incurred in connection with the breach of the Engagement Letter.

RELIEF DEMANDED

WHEREFORE, Plaintiffs UBSS and UBS AG demand judgment:

(a) On the first cause of action, as against the CDO Fund and SOHC, the amount of at least \$157,949,885.47, representing the aggregate amount of losses on the Portfolio of Securities, plus approximately \$75,000 in estimated costs and expenses in connection with any sale of the securities subject to the Warehouse Agreements, less any net proceeds of the sale or liquidation of the collateral in the Designated Account;

(b) On the second cause of action, as against the CDO Fund and SOHC, in the amount of at least \$587,357,060.59, representing the aggregate amount of losses on the Portfolio of Credit Default Swaps, less any net proceeds of the sale or liquidation of the collateral in the Designated Account plus approximately \$75,000 in estimated costs and expenses in connection with any sale of the securities under the Warehouse Agreements;

(c) On the third cause of action, as against Highland Capital, in the amount of \$745,306,946.06, plus any costs, fees and expenses applicable under the Warehouse Agreements and the Engagement Letter, less any net proceeds of the sale or liquidation of the collateral in the Designated Account;

(d) Granting UBSS and UBS AG costs and disbursements, including reasonable attorneys' fees and expenses of this action; and

(e) Granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
February 24, 2009

CADWALADER, WICKERSHAM & TAFT LLP

By: 

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UBS AG, London Branch*

EXHIBIT 11

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: BERNARD J. FRIED
Justice

PART 60

E-FILE

UBS Securities LLC and USB AG, London Branch,

INDEX NO. 650097-2009

Plaintiff(s),

MOTION DATE _____

- v -

MOTION SEQ. NO. 006

Highland Capital Management, L.P., et al.,

MOTION CAL. NO. _____

Defendant(s).

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

PAPERS NUMBERED

Answering Affidavits — Exhibits _____

Replying Affidavits _____

RECEIVED

JUN 18 2010

Cross-Motion: Yes No

MOTION SUPPORT OFFICE RECEIVED
NYS SUPREME COURT - CIVIL

JUN 18 2010

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MOTION SUPPORT OFFICE
NYS SUPREME COURT - CIVIL

Upon the papers submitted in connection with Motion Seq. No. 006, and upon hearing oral argument, I now render the following decision.

Before me is a motion by plaintiffs UBS Securities LLC and UBS AG, London Branch, (collectively, "UBS") for leave to file an amended complaint, pursuant to CPLR § 3025(b). Opposition papers have been submitted separately by defendant Highland Capital Management, L.P. ("Highland Capital") and by defendants Highland CDO Opportunity Master Fund, L.P. ("CDO Fund") and Highland Special Opportunities Holding Co.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

(SOHC), (collectively, the "Funds"), based on deficiency in pleading, under CPLR §§ 3211(a)(1) and (7), and failure to make a prima facie showing under CPLR § 3025(b). No opposition has been submitted on behalf of any of the proposed new defendants.

Plaintiff's proposed amendment would add six new causes of action: (1) fraudulent inducement against Highland Capital and the Funds; (2) breach of the covenant of good faith and fair dealing against Highland Capital and the Funds; (3) fraudulent conveyance against Highland Capital, the Funds, and five new defendants: Highland Financial Partners, L.P. ("Highland Financial"), Highland Credit Strategies Fund ("Credit Strategies Fund"), Highland Crusader Offshore Partners, L.P. ("Crusader"), Highland Credit Opportunities CDO, L.P. ("Credit Opportunities Fund"), and Strand Advisors, Inc. ("Strand"); (4) tortious interference with contractual relations against Highland Capital, Credit Strategies Fund, Crusader, and Credit Opportunities Fund; and (5) a cause of action seeking a declaration that Strand, Highland Capital's general partner, is responsible for Highland Capital's obligations; and (6) a cause of action seeking a declaration that Highland Financial is SOHC's alter ego and is responsible for its obligations.

The parties previously agreed that this motion would take the place of a motion to dismiss the first amended complaint by the current defendants, if leave to file any part of it were granted.

Opposition briefs were submitted by Highland Capital and the Funds. As counsel for Highland Capital and the Funds does not represent the proposed new defendants, and any statements made by their counsel are not binding on the proposed new defendants, I will disregard their opposition to the addition of new claims against the proposed new defendants, except insofar as they argue that the new claims would affect the current defendants. The proposed new defendants will have an opportunity to answer or move to dismiss these claims if and when a pleading is served on them.

As I noted in my decision on the motion to dismiss the original complaint, this lawsuit arises out of a failed proposed collateralized debt obligation transaction to be sponsored by Highland Capital, a hedge fund. The proposed transaction contemplated that UBS would acquire and warehouse certain securities and assume certain obligations under credit default swaps, with the expectation that "special purpose entities" would acquire those securities and assume those obligations and issue securities secured by those securities and obligations. The special purpose entities were never created, and the contemplated transaction never occurred. The original complaint alleged that the Funds, which are affiliated with Highland Capital, had agreed to provide collateral to UBS to

mitigate and offset any losses it suffered in case of adverse economic conditions, but failed to do so. UBS alleged that it consequently suffered losses exceeding \$745 million.

The parties entered into three agreements dated March 14, 2008, which were the subject of the original complaint: (a) an engagement letter between UBS Securities and Highland Capital, (b) a cash warehouse agreement between UBS Securities and all three defendants, and (c) a synthetic warehouse agreement between USB AG and all three defendants.

Highland Capital filed a motion to dismiss UBS's cause of action for indemnification against Highland Capital—the only cause of action stated against Highland Capital in the original complaint—pursuant to C.P.L.R. § 3211(a)(1). The resolution of the motion turned on the interpretation of documentary evidence. Although I denied the motion to dismiss, that decision was reversed by the Appellate Division, First Department, in a short decision dated February 22, 2010. The First Department concluded that, as a matter of contract interpretation, “the agreements between the parties contain no promise on the part of Highland to undertake liability with respect to the investment losses suffered by plaintiffs” or otherwise to indemnify UBS's alleged losses. The Court therefore granted Highland Capital's motion to dismiss the complaint against Highland Capital and directed the Clerk to enter judgment in favor of Highland Capital on plaintiff's complaint against it. Its decision left standing plaintiffs' remaining two breach of contract claims against the Funds and Highland Capital's two counterclaims against plaintiffs.

A “party may amend his pleading... at any time by leave of court,” which “shall be freely given *upon such terms as may be just* including the granting of costs and continuances.” CPLR § 3025(b) (emphasis added). Section 3025 says nothing about whether a pleading that has already been dismissed can be amended.

The First Department, however, has repeatedly held as a general rule that a complaint that has been dismissed as against a party cannot be amended. *E.g.*, *Estate of Brown v. Pullman Group*, 60 A.D.3d 481, 482 (1st Dept. 2009) (leave to amend counterclaims properly denied because the counterclaims had already been dismissed); *Kazakhstan Investment Fund Ltd. v. Manolovici*, 2 A.D.3d 249, 250 (1st Dept. 2003) (motion to amend complaint properly denied since the complaint had been dismissed on a prior motion as time-barred, and there was therefore nothing left before the court to amend); *Jeffrey L. Rosenberg & Assocs., LLC. v. Kadem Cap. Mgmt., Inc.*, 306 A.D.2d 155, 156 (1st Dept. 2003) (leave to amend the complaint was properly denied, as complaint had been previously dismissed on summary judgment, and thus “there was no

complaint left before the court to amend"). The Second Department is in accord. See, e.g., *Murray Hill Investments, Inc. v. Adas Yereim, Inc.*, 205 A.D.2d 512, 514 (2d Dept. 1994) (affirming order denying motion to amend complaint to "assert, inter alia, new causes of action against two defendants which had already had the complaint dismissed insofar as it is asserted against them"). I have previously applied this principle to forbid the amendment of a complaint that had been dismissed with prejudice. See *North Amer. Van Lines, Inc. v. Amer. Int'l Cos.*, 819 N.Y.S.2d 849, 2006 WL 908653, at *4 (Sup. Ct. Apr 10, 2006), *aff'd on other grounds*, 38 A.D.3d 450 (1st Dept. 2007).

The First Department has carved out two exceptions to this general rule, but neither of them seems to apply here.

As an example of the first exception: in *Imprimis Investors LLC v. Insight Venture Mgmt., Inc.*, 300 A.D.2d 109 (1st Dept. 2002), the Court permitted the plaintiffs to amend their complaint to substantiate the "conclusory alter ego allegations" regarding the relationship between the defendant and affiliated entities, which had been dismissed in the original complaint. The Court was careful to note that the amendment was permissible, because, although "the motion culminating in the prior order was nominally for summary judgment, it was directed to the sufficiency of the pleading and not to the proof." *Imprimis*, 300 A.D.2d at 110-11.

Similarly, in *Donovan v. Rothman*, 253 A.D.2d 627 (1st Dept. 1998), the Court permitted the plaintiffs to amend their complaint to add factual allegations "that amplified the allegations and otherwise addressed the failings cited by the court in its prior order," concerning the original complaint's failure to state a claim. *Donovan*, 253 A.D.2d at 628-30.

In both of these cases, the complaints were dismissed not on the merits but based on insufficiently-pled facts. The proposed amendments supplemented the conclusory allegations of the **same** causes of action that had been insufficiently pled and therefore dismissed in the original complaints.

Neither of these conditions describes the instant situation. The motion to dismiss the indemnification claim against Highland Capital under CPLR § 3211(a)(1) was granted upon a review of the documentary evidence, and not based on the sufficiency of the pleading. The proposed amended complaint does not supplement the cause of action that was dismissed for insufficient pleading by adding new factual allegations, but rather adds **new** and **different** causes of action. Therefore, the exception to the general rule carved out in *Imprimis* and *Donovan* does not seem to apply here.

In *Spada v. B.W. Energy Sys. E., Inc.*, 167 A.D.2d 328, 562 N.Y.S.2d 78 (1st Dept. 1990), the Court carved out another exception to the general rule. There, the Court permitted the plaintiff to amend its complaint to reassert a claim under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961 *et seq.*, which the trial court had dismissed for lack of jurisdiction, because the Court of Appeals had just issued a decision holding that state courts indeed had concurrent jurisdiction over civil RICO claims, and this decision was issued *after* the dismissal of the RICO claim but still during the pendency of the action. *Spada*, 167 A.D.2d at 78. The facts of *Spada* are exceptional enough that I do not think its holding either applies to the instant case or derogates from the general rule.

Consequently, applying the general rule set forth in cases such as *Estate of Brown*, as UBS has no complaint against Highland Capital, UBS is not entitled to file an amended complaint adding new claims against Highland Capital. Therefore, UBS's motion is denied, insofar as it seeks to resurrect its original complaint against Highland Capital.

Res judicata

While I deny the motion to amend the complaint based on binding First Department authority, in the alternative, I will address defendants' contention that plaintiffs' proposed new claims against Highland Capital are barred by *res judicata* doctrine.

I did not solicit and do not consider the May 11, 2010 letter from plaintiffs providing additional discussion of the *res judicata* issue.

"[O]nce a claim is brought to a final conclusion, all other claims arising out of the same transaction or series of transactions are barred, even if based upon different theories or if seeking a different remedy." *O'Brien v. City of Syracuse*, 54 N.Y.2d 353, 357 (1981). The Court of Appeals has acknowledged, however, that "unfairness may result if the doctrine is applied too harshly; thus in properly seeking to deny a litigant two days in court, courts must be careful not to deprive the litigant of one." *Xiao Yang Chen v. Fischer*, 6 N.Y.3d 94, 100 (2005) (internal quotations omitted). In determining whether particular claims are part of the same transaction for *res judicata* purposes, a "pragmatic test" has been applied, analyzing "whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage." *Chen*, 6 N.Y.3d at 100-01 (internal quotations omitted).

Applying this standard, I conclude that *res judicata* would not apply to preclude the

new claims. The original complaint did not state the majority of the allegations that form the basis of the proposed new claims; it did not allege that Highland Capital stripped the Funds of assets, provided false financial information about the Funds, undercapitalized the Funds, co-mingled the Funds' assets with affiliates' assets, or fraudulently transferred assets among its affiliates, or that any affiliates were Highland Capital's alter egos. The evidence that UBS needs to prove the new claims is entirely different from the evidence that it needed to prove the contract claim that was dismissed. Even if UBS learned of the evidence undergirding its new claims many months earlier, as defendants claim, that would not change my conclusion; *when* UBS learned of the new evidence is not relevant to the res judicata inquiry.

Moreover, it would seem unfair not to let UBS amend its complaint, based only on res judicata doctrine, for two additional reasons. First, UBS sought permission by letter to add substantially the same claims while this action was still pending, but compliance with Commercial Division Rule 24 prevented that amendment while UBS waited for a pre-motion conference to be held.¹ Second, the dismissal of the original complaint did not take place in a prior lawsuit, but in the very same lawsuit. As Highland Capital never withdrew its counterclaims, it has remained a party to this lawsuit since it was served with the original complaint.

I will now turn to the merits of the proposed new claims. As the original complaint was never dismissed as against the Funds, they remain a part of this lawsuit. Insofar as the complaint has been dismissed as against Highland Capital, what follows may be considered as a holding in the alternative, in the event that this decision is appealed.

"Mere lateness is not a barrier" to granting permission to amend pleadings. *Edenwald Contracting Co., Inc. v. City of New York*, 60 N.Y.2d 957, 959 (1983) (internal quotations omitted); *Spitzer v. Schussel*, 48 A.D.3d 233, 233-34 (1st Dept. 2008). Barriers to late amendments are either "significant prejudice to the other side," *Edenwald*, 60 N.Y.2d at 959, or a lack of merit to the proposed new cause of action, *Schussel*, 48 A.D.3d

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In a letter dated February 16, 2010, plaintiffs wrote a letter asking for a conference, pursuant to Commercial Division Rule 24, concerning their request to move for leave to amend their complaint. This letter contemplated adding causes of action for fraudulent inducement, breach of the covenant of good faith and fair dealing, and fraudulent conveyance, and invoking alter ego and general partner liability theories, and adding new defendants. A Rule 24 conference was scheduled for the following week. Two days later, however, on February 18, 2010, the Appellate Division issued its decision, dismissing the complaint.

at 233-34. Under controlling First Department law, the party seeking to amend bears the burden of showing merit to the proposed amendment. *See Schussel*, 48 A.D.3d at 233-34 (affirming denial of plaintiff's motion to amend pleading because proposed new claim lacked merit, despite lack of prejudice to defendants).

Fraudulent inducement

"To plead a claim for common-law fraudulent inducement, a plaintiff must assert the misrepresentation of a material fact, which was known by the defendant to be false and intended to be relied on when made, and that there was justifiable reliance and resulting injury." *Braddock v. Braddock*, 60 A.D.3d 84, 86 (1st Dept. 2009).

The first amended complaint alleges that defendants gave UBS false and misleading information about the Funds' finances, assets, and business practices, which fraudulently induced UBS to restructure their original transaction and to release claims against defendants for losses on certain assets arising out of the termination of the original engagement.

The fraud allegations are based on the following principal contentions: (a) that defendants represented that the Funds owned specific assets that they did not in fact own; (b) that defendants' valuation of the Funds' assets was unreasonable based on existing market conditions; (c) that the financial reports for the Funds that were provided to UBS inflated the Funds' assets by failing to indicate that assets were or would be pledged to other creditors or were borrowed from other Highland affiliates, or by failing to discuss liquidity problems; and (d) that Highland Capital was in the habit of moving funds around among affiliates and disregarding corporate formalities.

UBS has adduced supporting affidavits maintaining that, had UBS known this information, it would not have restructured the original engagement so as to forego enforcement of UBS's contractual rights. (See *LeRoux Aff.* ¶¶ 5-6, 13, 38, 48.)

With regard to the allegation that the Funds owned specific assets that they did not in fact own: I conclude that plaintiffs have adequately stated a fraud claim. I am satisfied that plaintiffs have pled this aspect of their fraud claim with sufficient detail, *see* CPLR § 3016(b), and that this claim may have some merit.

With regard to the allegation that defendants' valuation of the Funds' assets was unreasonable based on existing market conditions: I also find that plaintiffs have adequately stated a claim, and there may be some merit to it.

A more difficult question is whether defendants had a duty to disclose that some of the Funds' assets were pledged to others and/or were borrowed from other Highland

affiliates or that defendants moved funds around among Highland affiliates and disregarded corporate formalities, or otherwise to disclose liquidity problems.

UBS maintains that, since it requested and received the Funds' financial reports, which made a statement of their assets, defendants were obligated to disclose additional information not contained in those reports, *i.e.*, that some of the Funds' assets were pledged to others and/or were borrowed from other Highland affiliates, and that the Funds had liquidity problems, under the principle that, where a party to a business transaction has undertaken to make a statement, he cannot stop halfway, where he omits something "so vital" that it goes "to the very essence of the bargain." *Junius Constr. Co. v. Cohen*, 257 N.Y. 393, 399-400 (1931).

Defendants argue on the contrary that UBS, a sophisticated party, had a duty to inquire into this information specifically and to contract for the right to see this information before closing the restructured transaction, as it would have done if it considered it material.

"[A]bsent a fiduciary relationship between the parties, a duty to disclose arises only under the 'special facts' doctrine where one party's superior knowledge of essential facts renders a transaction without disclosure inherently unfair." *Jana L. v. West 129th Street Realty Corp.*, 22 A.D.3d 274, 277 (1st Dept. 2005) (internal quotations omitted). The special facts doctrine "requires satisfaction of a two-prong test: that the material fact was information 'peculiarly within the knowledge' of West Realty, and that the information was not such that could have been discovered by Associates through the 'exercise of ordinary intelligence.'" *Id.* at 278 (internal quotations omitted). A party seeking to employ the special facts doctrine "ha[s], at the very least, a duty to inquire." *Id.*

Here the parties were sophisticated entities engaged in arms-length negotiations. The lengthy complaint and the substantial record submitted by UBS do not allege or evidence a specific inquiry by UBS into whether the Funds' assets were or would be pledged to other creditors or were borrowed from other Highland affiliates, or whether defendants moved funds around among Highland affiliates or disregarded corporate formalities, or otherwise had liquidity problems. *Cf.* First Am. Compl. ¶¶ 47-50, LeRoux Aff. ¶ 12 (alleging generally that UBS requested financial information, but not alleging that it requested the specific information that it now says should have been disclosed). In any case, the first amended complaint alleges that UBS was aware that defendants were willing to disregard corporate formalities on at least one occasion. (First Am. Compl. ¶ 100.) The

fact that no inquiry was made as to this specific information, other than a general request for financial reports, suggests that the information may have been less material than UBS now claims it was. I find that UBS has not adequately alleged that it satisfied its duty to inquire as to this information. Accordingly, I conclude that UBS has not established that there is merit to its fraudulent inducement claim against Highland Capital and the Funds based on these allegations.

Breach of the covenant of good faith and fair dealing

"Implicit in all contracts is a covenant of good faith and fair dealing in the course of contract performance." *Dalton v. Educational Testing Service*, 87 N.Y.2d 384, 389 (1995).

UBS claims that Highland Capital breached the covenant of good faith and fair dealing in their agreements by stripping the Funds of assets, making it impossible for the Funds to satisfy their contractual obligations to UBS to bear certain losses.

Upon review of the first amended complaint and the record on this motion, I am satisfied that this claim has been adequately stated and may have merit.

Fraudulent conveyance

New York's Debtor and Creditor Law² considers a variety of transfers to be fraudulent. "Every conveyance made and every obligation incurred with actual intent... to hinder, delay, or defraud either present or future creditors, is fraudulent as to both present and future creditors." Debt. & Cred. Law § 276. A conveyance by a person is also fraudulent if that person "will be thereby rendered insolvent... as to creditors without regard to his actual intent if the conveyance is made or the obligation is incurred without a fair consideration." Debt. & Cred. Law § 273. Furthermore, "[e]very conveyance made and every obligation incurred without fair consideration when the person making the conveyance or entering into the obligation intends or believes that he will incur debts beyond his ability to pay as they mature, is fraudulent as to both present and future creditors." Debt. & Cred. Law § 275.

UBS alleges that Highland Capital and the Funds fraudulently transferred cash and assets from the Funds and Highland Financial (which UBS claims is SOHC's alter ego) to Highland Capital, its affiliates, and other Highland creditors, between March 2008 and March 2009, when the Funds and Highland Financial were insolvent.

In opposition to the proposed amendment, Highland Capital appears to concede

²

The parties apparently agree that New York law applies.

that a non-transferee can be liable for a fraudulent transfer if it has dominion and control over the transferred assets or benefits in some way from the conveyance. (Highland Cap. Opp'n Br. at 18.)

I find that the first amended complaint adequately alleges the elements of a fraudulent conveyance cause of action against the Funds. It also sufficiently alleges both that a fraudulent transfer was made to Highland Capital and that Highland Capital had control over or benefitted from alleged transfers of assets, even when it was not the direct recipient of them, and it appears that the allegations may have merit.

Tortious interference with contractual relations

Plaintiffs allege that Highland Capital tortiously interfered with the Funds' contract with UBS by stripping them of assets, making it impossible for the Funds to meet their contractual obligations.

The elements of a tortious interference with contract claim are (a) the existence of a valid contract, (b) the tortfeasor's knowledge of the contract and intentional interference with it, (c) the resulting breach, and (d) damages. *Hoag v. Chancellor, Inc.*, 246 A.D.2d 224, 228 (1st Dept. 1998). Economic justification is a defense to this claim, unless there is a showing of malice or illegality. *Foster v. Churchill*, 87 N.Y.2d 744, 750 (1996).

The tortious interference with contract claim against Highland Capital is not precluded simply because Highland Capital is also a party to the agreements at issue. I am persuaded by the reasoning of *Rosecliff, Inc. v. C3, Inc.*, 1995 WL 276156 (S.D.N.Y. May 10, 1995), that a claim for tortious interference can be maintained against a tortfeasor who is a party to a contract when that contract involves at least three parties. Defendants have not cited any contrary New York authority involving a contract between three or more parties.

Nevertheless, based on the allegations of the first amended complaint, Highland Capital's alleged acts were evidently taken in its own economic interests; the first amended complaint does not allege malice or illegality, so as to prevent the application of this defense.³

Therefore, I conclude that UBS's allegations do not state a claim for tortious

³

I am not convinced by Highland Capital's "control" argument. The cases cited by Highland Capital in support of it all involve individuals who control a corporation; I am not convinced that the same principle governs the facts here, but I do not need to decide that question.

interference with contract.

Declaratory judgment causes of action

With regard to the proposed new declaratory judgment causes of action against Strand and Highland Financial: as I stated previously, I do not consider the arguments in opposition to these proposed new claims raised by defendants, their counsel does not represent the proposed new defendants.

I further find that defendants would not experience any significant prejudice by the assertion of the proposed new claims that are otherwise adequately stated.

I offer no final opinion on the merits of any of the proposed new claims.

Finally, UBS has long been pressing for an order accelerating the pace of discovery. In view of this Order and the Order concerning the Funds' proposed amendment also issued today, and the representation at oral argument by counsel for UBS of his intention to file a new related action against Highland Capital if UBS's motion to amend were denied as to Highland Capital, it seems most efficient to convene the next status conference to discuss how the parties want to proceed, *after* the new amended pleading is filed and answered, and after the anticipated new related action has been filed and answered.

Accordingly, it is

ORDERED that plaintiffs' motion for leave to file the first amended complaint is granted in part and denied in part as described in this Order; and it is further

ORDERED that plaintiffs shall serve and file a revised first amended complaint, in conformity with this Order, within 20 days after service on plaintiffs' attorney of a copy of this Order with notice of entry, and defendants shall serve and file an answer within 20 days thereafter; and it is further

ORDERED that the parties shall appear for a discovery conference on July 29, 2010 at 10:30 a.m.

Dated: 6/17/2010

R. Fried
HON. BERNARD J. FRIED

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

EXHIBIT 12

CADWALADER

Cadwalader, Wickersham & Taft LLP
New York London Charlotte Washington Beijing

One World Financial Center, New York, NY 10281
Tel +1 212 504 6000 Fax +1 212 504 6666
www.cadwalader.com

February 16, 2010

BY HAND AND ELECTRONIC-FILING

Hon. Bernard J. Fried
New York State Supreme Court
Commercial Division, Part 60
60 Centre Street, Room 248
New York, New York 10007

Re: UBS Securities LLC, et al. v. Highland Capital Management, L.P., et al.,
Index No. 650097/2009 (BJF)

Dear Justice Fried:

We are attorneys for UBS Securities LLC and UBS AG, London Branch (together, "UBS"), plaintiffs in the above-referenced action. We write in accordance with Rule 24 of the Commercial Division's rules to request permission to move, pursuant to CPLR 3025(b) for leave to amend the Complaint, or in the alternative a teleconference to address this request at the Court's earliest convenience. The proposed First Amended Complaint will add new defendants and causes of action, as well as a variety of new allegations that further support the indemnification and breach of contract claims that UBS already has alleged in the original Complaint. Addressing UBS's proposed motion for leave to amend the complaint as expeditiously as possible is necessary so that the parties and the Court may account for the new allegations, causes of action and parties as they renegotiate the current case management order, and otherwise address various discovery issues and deadlines with the Court later this week.

It is well-settled that when a party seeking to amend its pleading requires leave of the Court, such "leave shall be freely given upon such terms as may be just." CPLR 3025(b); see also Murray v. City of New York, 43 N.Y.2d 400, 404 (1977), reargument dismissed, 45 N.Y.2d 966 (1978); Marks v. Macchiarola, 221 A.D.2d 217, 218 (1st Dep't 1995). Leave to amend is particularly warranted when there has not been a meaningful amount of discovery, as the defendant cannot claim prejudice. See Seda v. New York City Housing Authority, 181 A.D.2d 469, 470 (1st Dep't 1992) ("[I]n the absence of [substantial progress and] meaningful discovery plaintiff has demonstrated no prejudice, and leave to amend the answer should have been granted."). Here, defendants Highland Capital Management, L.P. ("Highland Capital"), Highland CDO Opportunity Master Fund, L.P. ("CDO Fund") and Highland Special Opportunities Holding Company ("SOHC") (collectively, the "Fund Defendants") cannot claim any prejudice whatsoever.

C A D W A L A D E R

Hon. Bernard J. Fried
February 16, 2010

The proposed Amended Complaint will add the following causes of action: (1) a fraudulent inducement cause of action against defendant Highland Capital and others predicated on false and misleading statements made in connection with inducing UBS to enter the Restructured Transaction; (2) a cause of action against Highland Capital and others for fraudulent transfers of assets; (3) a cause of action arising out of Highland Capital's breach of the implied covenant of good faith and fair dealing inherent in the Agreements by virtue of the asset transfers that it orchestrated to UBS's detriment; (4) claims for breach of the Warehouse Agreements against Highland Capital and others predicated on alter ego and general partner liability theories; (5) an equitable indemnification claim against Highland Capital and others; and (6) breach of the Engagement Letter by Highland Capital.

The proposed Amended Complaint also adds new defendants, all of whom are affiliated with defendant Highland Capital and the proposed Fund Defendants. The new proposed defendants, however, either control the three current defendants, or are controlled by Highland Capital and/or one of the new defendants. Thus, the new defendants are familiar with this action and will not be prejudiced by being added to this action at this juncture. Moreover, the new causes of action arise out of the same or related circumstances and events as UBS's pending claims. Additional facts have become available to plaintiffs and are alleged. Certain new allegations and causes of action in the proposed First Amended Complaint are based on the limited discovery that UBS has received from defendants to date. Prior document productions and requests are all still relevant and Defendants will not be prejudiced by UBS's filing of the proposed First Amended Complaint.

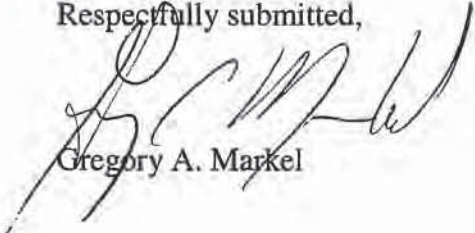
Allowing UBS to amend this Complaint at this stage is not just appropriate, but necessary. Discovery has not progressed beyond the exchange of a relatively small number of documents. The parties have not exchanged any responsive emails to date. Indeed, the parties have not yet agreed to the universe of emails to be reviewed, or a protocol for producing emails. No prejudice can be claimed. The parties are currently negotiating a revised case management order to present to the Court that, if approved, would extend the current discovery deadlines. We respectfully submit that this is a proper time to allow UBS to file the First Amended Complaint so that (i) the parties may account for the new allegations in their negotiations over the schedule and future meet and confers regarding the proper scope of discovery; and (ii) the new proposed parties would have a say in any new proposed case management order and schedule.

If the Court should have any questions regarding the foregoing, I can be reached at (212) 504-6112. Otherwise, we look forward to presenting the enclosed order to show cause to the Court as soon as practicable, or discussing UBS's proposed motion during a teleconference to be scheduled at the Court's earliest convenience.

C A D W A L A D E R

Hon. Bernard J. Fried
February 16, 2010

Respectfully submitted,



Gregory A. Markel

cc: All counsel of record (via e-mail)

EXHIBIT 13

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

UBS SECURITIES LLC and UBS AG, LONDON BRANCH,

Plaintiffs,

-against-

HIGHLAND CAPITAL MANAGEMENT, L.P.

Defendant.

Index No. 650752/2010

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer on plaintiffs' attorneys within (20) days after service of this summons, exclusive of the date of service, or within thirty (30) days after service is complete if the summons is not personally delivered to you within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

As set forth in the Complaint, plaintiffs designate New York County as the place of venue pursuant to Section 503 of the Civil Practice Law and Rules, and pursuant to written agreements among plaintiffs and defendant Highland Capital Management, L.P.

001095

Dated: New York, New York
June 28, 2010

CADWALADER, WICKERSHAM & TAFT LLP

By: /s/ Gregory A. Markel
Gregory A. Markel
Howard R. Hawkins, Jr.
Jason Jurgens
Ellen M. Halstead

Office and Post Office Address:
One World Financial Center
New York, NY 10281
Telephone: (212) 504-6000
Facsimile: (212) 504-6666

*Attorneys for Plaintiffs UBS Securities LLC and
UBS AG, London Branch*

To: HIGHLAND CAPITAL MANAGEMENT, L.P.
13455 Noel Road, Suite 800
Dallas, Texas 75240

9 West 57th Street
New York, New York

CONTAINS UNREDACTED CONFIDENTIAL MATERIAL SUBJECT TO STIPULATION
AND ORDER FOR THE PRODUCTION AND EXCHANGE OF CONFIDENTIAL
INFORMATION

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

UBS SECURITIES LLC and UBS AG, LONDON BRANCH,

Plaintiffs,

-against-

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant.

Index No. 650752/2010

COMPLAINT

Plaintiffs, UBS Securities LLC (“UBSS”) and UBS AG, London Branch (“UBS AG”) (collectively, “UBS”), for their Complaint allege against defendant Highland Capital Management, L.P. (“Highland Capital”), as follows:

NATURE OF THE ACTION

1. UBS brings this action to recover damages in excess of \$686 million resulting from the wrongful conduct of Highland Capital, based on causes of action for fraudulent inducement, breach of the duty of good faith and fair dealing, and fraudulent conveyance.

2. Highland Capital and two of its affiliates, Highland Special Opportunities Holding Company (“SOHC”) and Highland CDO Opportunity Master Fund, L.P. (“CDO Fund,” and together with SOHC, the “Fund Counterparties”), fraudulently induced UBS to restructure a transaction to avoid Highland Capital’s and the Fund Counterparties’ contractual obligation to pay UBS over \$86 million. Once Highland Capital and the Fund Counterparties succeeded in misleading UBS into restructuring the original transaction, Highland Capital and its affiliates made it impossible for the Fund Counterparties to meet their obligations to UBS by stripping the

Fund Counterparties of their valuable assets through fraudulent conveyances and otherwise dealing in bad faith with their contractual obligations to UBS.

3. When UBS finally terminated the restructured transaction and demanded payment from Highland Capital and the Fund Counterparties, it was owed in excess of \$686 million that the Fund Counterparties could not pay because of the misappropriations and improper transfers of assets directed by Highland Capital and the Fund Counterparties. Even after UBS demanded payment, Highland Capital and certain of its affiliates engaged in further unlawful conduct that harmed UBS by making fraudulent asset transfers from SOHC's alter ego (Highland Financial Partners, L.P. ("Highland Financial")) to Highland Capital, as well as to Highland Credit Strategies Fund ("HCF Trust"), Highland Crusader Offshore Partners, L.P. (the "Crusader Fund") and Highland Credit Opportunities CDO, L.P. (the "Credit Opp. Fund") (collectively, the "Affiliated Transferees" and together with Highland Financial, the Fund Counterparties and Strand Advisors, Inc. ("Strand"), the "Highland Entities"). The Highland Entities are defendants in the separate but related action commenced by UBS on or about February 24, 2009 (the "Highland Entity Action"). In accordance with this Court's June 17, 2010 Order, UBS filed the First Amended Complaint in the Highland Entity Action concurrently with filing this Complaint.

SUMMARY OF THE ACTION

4. This action arises out of defendant Highland Capital's efforts in the Spring of 2007 to sponsor a collateralized debt obligation ("CDO") securitization (the "Original Engagement"). In connection with the Original Engagement, UBS agreed to finance the purchase of various collateralized loan obligation ("CLO") securities, as well as credit default swap obligations that referenced similar CLO securities. UBS agreed to hold or "warehouse" the

CLO securities and credit default swaps (collectively, the “Warehouse Assets” or “Warehouse Facility”) for Highland Capital’s benefit.

5. On or about August 15, 2007, the Original Engagement terminated by its terms without the contemplated securitization having occurred. As a result of the termination, Highland Capital and two of its affiliates, the Fund Counterparties, owed UBS in excess of \$86 million related to the decline in the value of the Warehouse Assets.

6. Instead of paying UBS what it was owed, Highland Capital and the Fund Counterparties fraudulently induced UBS to restructure the Original Engagement by providing UBS with false, incomplete and otherwise misleading information concerning the Fund Counterparties’ finances and assets. Using both affirmative material misrepresentations and omissions (material facts or information needed to be disclosed to make the statements actually made not misleading, and which were not disclosed, are referred to hereinafter as “Omissions”), Highland Capital, its principals and the Fund Counterparties misled UBS regarding the financial health of the Fund Counterparties and their creditworthiness, thereby causing UBS to forego recovering its losses from Highland Capital in favor of agreeing to restructure the terms of the parties’ prior agreements (the “Restructured Transaction”).

7. For example, the strength of the Fund Counterparties’ financial statements, and their purported ability to use the hundreds of millions of dollars worth of assets reflected therein to satisfy future obligations to UBS under the Warehouse Agreements were material to UBS’s decision to agree to the restructuring. Consequently, in connection with negotiating the Restructured Transaction, UBS conditioned any restructuring on the Fund Counterparties’ ability to post \$70 million in cash and securities as collateral (the “Initial Restructuring Collateral”) with State Street Bank and Trust Company (“State Street”), in which UBS would hold a security interest. In a serious Omission, Highland Capital and the Fund

Counterparties failed to disclose to UBS that the Fund Counterparties did not own all of the Initial Restructuring Collateral that they were expected to post. Instead, to meet the Initial Restructuring Collateral obligation, Highland Capital transferred assets from other entities that it controlled. By making these transfers, Highland Capital and the Fund Counterparties were able to conceal important information about the Fund Counterparties' financial weakness that was both quantitatively and qualitatively material to UBS, and which would have caused UBS not to enter the Restructured Transaction.

8. Similarly, while negotiating the Restructured Transaction, Highland Capital and the Fund Counterparties provided UBS with financial reports and statements for the Fund Counterparties. The financial information that Highland Capital and the Fund Counterparties provided to UBS contained materially false and misleading information and Omissions concerning the financial condition of the Fund Counterparties. Among other things, Highland Capital and the Fund Counterparties misrepresented the amount of cash held by CDO Fund. Highland Capital and the Fund Counterparties failed to disclose that many of the assets that were accounted for on the Fund Counterparties' financial statements already had been encumbered (e.g., the Fund Counterparties had pledged the assets as collateral to other parties).

9. In reliance on material misstatements and Omissions made by Highland Capital and the Fund Counterparties, UBS agreed to restructure the Original Engagement, and thereby were fraudulently induced to give up contractual rights under the terms of the Original Engagement. In particular, UBS reasonably and justifiably relied on misrepresentations and Omissions of facts and information solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to believe that Highland Capital and its affiliates would provide it with false, incomplete or

otherwise misleading information about the Fund Counterparties' finances and assets, as they in fact did.

10. Had UBS known that the Fund Counterparties could not satisfy their Initial Restructuring Collateral obligations using their own assets, and still have sufficient liquidity to meet future collateral obligations, it would not have gone forward with the Restructured Transaction. UBS never would have agreed to the Restructured Transaction had it known prior to entering the Restructured Transaction the true status of the Fund Counterparties' financial condition and the true fair market value of the Fund Counterparties' holdings that would have been available to satisfy their then-existing and future obligations to UBS. UBS's losses described herein were directly and proximately caused by the conduct of Highland Capital and the Highland Entities described herein.

11. Almost immediately after UBS agreed to the Restructured Transaction, Highland Capital began the process of making it impossible for the Fund Counterparties to ever repay UBS what they owed. In particular, exercising its control over the Fund Counterparties, Highland Capital caused the Fund Counterparties to transfer cash for the benefit of Highland Capital and its principals, and, separately, in violation of UBS' rights, encumbered the Fund Counterparties' assets that UBS believed would be available to it, all during a time when the Fund Counterparties owed UBS hundreds of millions of dollars.

12. For example, in or around May 2008, Highland Capital caused the dissipation of approximately \$100 million in cash that CDO Fund held after it sold a long position in a company called SunCom Wireless. Highland Capital drained CDO Fund's cash resources despite CDO Fund's ever-increasing obligations to UBS. Highland Capital's bad faith conduct caused injury to UBS by making it impossible for the Fund Counterparties to satisfy their contractual obligations to UBS.

13. In September 2008, as losses in the Warehouse Facility continued to grow, UBS began to exercise its contractual rights and make margin calls demanding additional collateral from the Fund Counterparties. Because Highland Capital had routinely taken cash out of the Fund Counterparties, the Fund Counterparties were undercapitalized and lacked assets and liquidity to meet UBS's demands for additional collateral.

14. Highland Capital and its principals, including its president and founder, James D. Dondero, knew that if the Fund Counterparties defaulted on their obligations to UBS (or any other creditor), Highland Capital's ability to conduct business in the financial community and to keep or solicit investors would be harmed. Investors in Highland Capital's hedge fund family would withdraw their investments. In addition, creditors would take actions to protect themselves, including foreclosing on collateral and aggressively enforcing their contractual rights. Highland Capital and its principals were concerned that upon the disclosure of the true state of their affairs, their business would collapse.

15. To avoid that result, Highland Capital and its principals resorted to commingling Highland Capital's various affiliates' assets to generate short-term liquidity for the Fund Counterparties to satisfy obligations as they came due. In doing so, Highland Capital and its principals consciously decided to ignore the corporate formalities of the Fund Counterparties and the other affiliates that they controlled, including SOHC's alter ego, Highland Financial. For example, as UBS would eventually learn, Highland Capital satisfied the second margin call that UBS made to the Fund Counterparties in October 2008 with assets that did not belong to the Fund Counterparties. Highland Capital also loaned its own money to CDO Fund, and orchestrated other asset transfers to temporarily prop up the Fund Counterparties.

16. Highland Capital's and its principals' belated attempt to protect their reputation by continuing to fraudulently portray the Fund Counterparties as viable independent

entities was ultimately unsuccessful. By late October 2008, Highland Capital could no longer continue to prop up the Fund Counterparties.

17. On or about November 11, 2008, UBS demanded additional collateral from the Fund Counterparties. The Fund Counterparties defaulted. On December 3, 2008, UBS terminated the Restructured Transaction. As a result of UBS's termination of the Restructured Transaction, the Fund Counterparties were contractually obligated to pay UBS in excess of \$686 million.

18. On or about February 24, 2009, UBS commenced the Highland Entity Action by filing a complaint in this Court against the Fund Counterparties for breach of the Warehouse Agreements that had been entered in connection with the Restructured Transaction. By that time, the Fund Counterparties and SOHC's alter ego, Highland Financial, had been insolvent and unable to pay their creditors for some time. Nonetheless, Highland Capital and Highland Financial effected an additional improper and fraudulent asset transfer, which further impaired UBS's ability to recover anything from the Fund Counterparties. In March 2009, conscious that UBS had commenced the Highland Entity Action against the Fund Counterparties a few weeks earlier, Highland Capital and Highland Financial caused asset transfers whereby millions of dollars of assets were fraudulently transferred to Highland Capital and the Affiliated Transferees, thereby further reducing the Fund Counterparties' abilities to meet their obligations to UBS.

19. In sum, after fraudulently inducing UBS to agree to the Restructured Transaction, Highland Capital and its principals exercised their domination over the Fund Counterparties to improperly transfer substantial assets from the Fund Counterparties for their own personal gain, *i.e.*, solely and improperly to protect and enhance the value of Highland Capital and its principals by wrongful and improper means. In the process, they made it

impossible for the Fund Counterparties to pay UBS the losses they had agreed to pay on the Warehouse Facility.

THE PARTIES

A. The Plaintiffs

20. Plaintiff UBS AG, London Branch, is a banking corporation organized under the laws of Switzerland with its principal place of business at Finsbury Avenue, London, United Kingdom.

21. Plaintiff UBSS is a limited liability company organized under the laws of Delaware with its principal places of business at 677 Washington Blvd., Stamford, Connecticut, and 299 Park Avenue, New York, New York.

B. The Defendant

22. Defendant Highland Capital Management, L.P. ("Highland Capital") is a limited partnership organized under the laws of Delaware, with its principal place of business at 13455 Noel Road, Suite 800, Dallas, Texas 75240, and an office at 9 West 57th Street, New York, New York. Highland Capital is registered to do business in New York. Highland Capital describes itself as a 100% employee-owned partnership. Highland Capital is an investment adviser that manages a large number of investment entities that operate as hedge funds for Highland Capital's principals and affiliates, as well as unaffiliated investors. Highland Capital currently manages over \$25 billion in various assets, including structured financial products. Highland Capital also holds direct and indirect equity and ownership interests in the entities that it manages, including in Highland Financial, the Fund Counterparties and the Affiliated Transferees. James D. Dondero is the President of Highland Capital, as well as one of its founders. Highland Capital is a counterclaim-plaintiff in a separate but related action (the

“Highland Entity Action”) commenced by UBS concurrently with the filing of this Complaint in accordance with this Court’s June 17, 2010 Order with Memorandum.

C. Other Parties

1. Strand

23. Strand Advisors, Inc. (“Strand”) is Highland Capital’s general partner. Strand is a Delaware corporation principally engaged in the business of serving as the general partner of Highland Capital. As Highland Capital’s general partner, Strand is responsible for Highland Capital’s liabilities and obligations and regularly conducts business in New York, or causes its affiliates to conduct business in New York. Strand is a defendant in the Highland Entity Action.

2. Highland Financial and SOHC

24. Highland Special Opportunities Holding Company (“SOHC”) is a company organized under the laws of the Cayman Islands, with its offices at Walker House, PO Box 908GT, Mary Street, George Town, Grand Cayman, Cayman Islands. SOHC is a wholly-owned subsidiary of Highland Financial Partners, L.P. (a Delaware limited partnership) (“Highland Financial”). SOHC has six sister subsidiaries, all of which are owned in whole or in part by Highland Financial. Highland Capital serves as investment manager to Highland Financial, SOHC and its sister subsidiaries. Highland Financial and SOHC are defendants in the Highland Entity Action.

25. Highland Financial is SOHC’s alter ego. The minutes from Highland Financial’s board meetings during 2007, 2008 and 2009 demonstrate that Highland Financial, its board of directors (including Dondero), and Highland Capital all treated SOHC (and its sister affiliates) as Highland Financial’s alter ego and instrumentality. Among other things, Highland Financial’s board minutes (and conduct in connection with the Restructured

Transaction) establish that Dondero, Highland Capital, and Highland Financial's board of directors did not distinguish between Highland Financial's debts and obligations, and the debts and obligations of its subsidiaries, including SOHC. Instead, they operated Highland Financial and its subsidiaries, including SOHC, as a single economic entity, regularly commingling assets among the affiliates to achieve Highland Financial's, Dondero's and/or Highland Capital's goals. From December 2007 to April 2009, SOHC was undercapitalized, had little liquidity of its own and was insolvent for much of the period. It depended on Highland Financial for liquidity. For all purposes relevant to this action, Highland Financial and SOHC should be treated as a single entity and as alter egos of one another.

3. CDO Fund

26. Highland CDO Opportunity Master Fund, L.P. ("CDO Fund") is a Bermuda exempted limited partnership, with its principal place of business at 52 Reid Street, Hamilton, Bermuda. Defendant Highland Capital controls CDO Fund's investment decisions through an investment management agreement. Between January 31, 2007 and August 31, 2008, Highland Capital's and its affiliates' aggregate ownership interest in CDO Fund ranged between 43.36% and 56.44%. Highland CDO Opportunity Fund, L.P. and Highland CDO Opportunity Fund, Ltd. serve as so-called "feeder funds" for CDO Fund. CDO Fund is a defendant in the Highland Entity Action.

4. The Affiliated Transferees Involved In the March 2009 Fraudulent Conveyance

27. Highland Credit Strategies Fund ("HCF Trust") is a Delaware statutory trust, and a closed-end management investment company registered under the Investment Company Act of 1940. It is publicly traded on the New York Stock Exchange under the ticker: "HCF." HCF Trust's principal place of business is 13455 Noel Road, Suite 800, Dallas, Texas

75240. R. Joseph Dougherty of Highland Capital is HCF Trust's President and CEO. Highland Capital serves as the investment advisor to HCF Trust. HCF Trust is a defendant in the Highland Entity Action.

28. Highland Crusader Offshore Partners, L.P. (the "Crusader Fund") is a Bermuda limited partnership with its principal place of business at Magnolia House Building, 1st Floor, 119 Front Street, Hamilton HM 12, Bermuda. The Crusader Fund also has an office located at 13455 Noel Road, Suite 800, Dallas, Texas 75240. The Crusader Fund transacts business within New York, and derives substantial revenue from interstate and international commerce. Crusader Fund is a defendant in the Highland Entity Action.

29. Highland Credit Opportunities CDO, L.P. (the "Credit Opp. Fund") is a Delaware limited partnership with its principal place of business at 13455 Noel Road, Suite 800, Dallas, Texas 75240. Credit Opp. Fund is a defendant in the Highland Entity Action.

30. HCF Trust, the Crusader Fund and the Credit Opp. Fund are referred to herein collectively as the "Affiliated Transferees" as they benefited from fraudulent conveyances engineered and directed by Highland Capital and Highland Financial in March 2009 to UBS's detriment. The Affiliated Transferees, Highland Financial, the Fund Counterparties and Strand are referred to herein collectively as the "Highland Entities."

D. Non-Parties Affiliated With Highland Capital In Which The Fund Counterparties Invested

31. The Fund Counterparties held investments in several Highland Capital-affiliated funds, including Highland Credit Opportunities CDO, L.P., Highland Legacy, Highland Loan Funding V, Highland Park CDO I, Ltd., Highlander Euro CDO B.V. and Highlander Euro CDO III B.V. Highland Capital served as the investment manager for these affiliated funds, and received valuable fees derived from the valuations of these funds' assets, which it managed.

JURISDICTION AND VENUE

32. Venue in this Court is proper under CPLR 503 because plaintiff UBSS has a principal place of business in New York County.

33. Venue is also proper under CPLR 501, and this Court may exercise jurisdiction over Highland Capital because UBS, Highland Capital and the Fund Counterparties all agreed in writing, before this action was commenced, to submit to such jurisdiction and venue, in connection with any dispute that may arise out of, in connection with, or related to, the Agreements (defined below), or any of the matters contemplated thereby.

34. This Court also may exercise jurisdiction over Highland Capital pursuant to CPLR 301 and 302(a)(1) and (3), because Highland Capital has an office in New York, is a foreign limited partnership registered to do business in New York, regularly transacts and solicits business in New York, committed tortious acts causing injury in New York, should reasonably have expected that its tortious acts would have consequences in New York, the effect of its wrongful conduct was felt in New York, and/or derives substantial revenue from interstate or international commerce.

FACTUAL BACKGROUND

A. The Original Engagement

35. In or around April 2007, Highland Capital approached UBS for short-term financing in connection with a securitization that Highland Capital wanted to sponsor. UBS agreed to do so (the "Original Engagement").

36. On or about April 20, 2007, UBSS and Highland Capital entered into an engagement letter (the "Original Engagement Letter"), which contemplated that UBSS would act as the exclusive financial arranger and placement agent for a type of collateralized debt obligation transaction ("CDO"), known as a collateralized loan obligation ("CLO") squared or

“CLO Squared” transaction. (A copy of the Original Engagement Letter is annexed hereto as Exhibit A.)

37. CLOs are a form of securitization where interest and principal payments on corporate loans made to multiple mid-sized and large businesses are pooled together by a lender or the owner of the loans, and then passed on through a securitization structure to investors. CLOs typically involve multi-million dollar loans known as syndicated loans, or leveraged loans made to new businesses or existing businesses, often to acquire other companies. The loan originators are able to spread risk through the CLO securitization, and simultaneously free up capital to make new loans to other businesses. The Original Engagement contemplated the securitization of CLO securities. Thus, the securitization contemplated by Highland Capital would have been a “CLO Squared” transaction.

38. On or about May 22, 2007, as contemplated by the Original Engagement Letter, UBSS and Highland Capital entered into a warehouse agreement (the “Original Cash Warehouse Agreement”). (A copy of the Original Cash Warehouse Agreement is annexed hereto as Exhibit B.) In accordance with the terms of the Original Engagement Letter and the Original Cash Warehouse Agreement, UBSS agreed to acquire securities as directed by Highland Capital. Highland Capital instructed UBS to acquire various CLO securities issued in connection with prior CLO transactions involving other sponsors and issuers (the “Cash Portfolio”).

39. In a separate but related synthetic warehouse agreement (the “Original Synthetic Warehouse Agreement,” and together with the “Original Cash Warehouse Agreement,” the “Original Warehouse Agreements”), UBS AG agreed to enter into credit default swaps (the “CDS Portfolio,” and together with the Cash Portfolio, the “Warehouse Assets”), pursuant to which UBS AG sold credit protection to various third parties. (A copy of the Original Synthetic Warehouse Agreement is annexed hereto as Exhibit C.)

40. For Highland Capital's benefit, UBS held the Warehouse Assets on its balance sheet (the "Warehouse Facility"). UBS was expected to hold the Warehouse Assets until such time as the parties could arrange for the assets to be securitized as part of the contemplated securitization. In particular, if the parties believed that a securitization was economically feasible, they would create a special purpose entity that would acquire the Warehouse Assets from UBS using the proceeds from the sale of securities to investors. The special purpose entity's debt securities would be secured by those Warehouse Assets.

41. Under the Original Warehouse Agreements, if the Original Engagement terminated without a securitization, Highland Capital and the Fund Counterparties were obligated to pay UBS for losses on the Warehouse Assets. In particular, under the terms of the Original Cash Warehouse Agreement, Highland Capital was directly responsible for the first \$50 million in losses in the Cash Portfolio, and under the terms of the Original Synthetic Warehouse Agreement, the Fund Counterparties were obligated to pay UBS for any and all losses suffered on the CDS Portfolio.

42. The Original Engagement Letter expired by its terms on August 15, 2007 without a securitization occurring. The Original Warehouse Agreements expired on the same date in accordance with their respective terms.

43. As of August 15, 2007, the Warehouse Assets in the Warehouse Facility had lost in excess of \$86 million in value. Although they had sufficient capital to do so, Highland Capital and the Fund Counterparties failed and refused to pay UBS what it was owed under the Original Warehouse Agreements.

44. As a result of extensive negotiations as well as representations and warranties made by Highland Capital on its own behalf, and on behalf of the Fund

Counterparties as their investment manager, UBS agreed to restructure the terms of the Original Engagement.

B. Highland Capital And The Fund Counterparties Resort To Fraud To Avoid Highland Capital's Obligations To UBS

45. As alleged above, as a result of the termination of the Original Engagement, Highland Capital was directly liable to UBS under the Original Warehouse Agreement for in excess of \$86 million.

46. Between August 2007 and March 14, 2008, UBS and Highland Capital had discussions and negotiations concerning a restructuring of the terms of the Original Engagement. Those negotiations resulted in agreements to restructure the Original Engagement (the "Restructured Transaction"), including a release by UBS of its claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement. (The terms of the Restructured Transaction are set forth in the Engagement Letter and Warehouse Agreements described below (collectively, the "Agreements"), which are annexed hereto as Exhibits D, E and F, respectively.)

47. During the course of negotiations and before March 14, 2008, Highland Capital and the Fund Counterparties made several material misrepresentations to UBS concerning the creditworthiness of the Fund Counterparties. Dondero, Highland Capital and the Fund Counterparties also failed to disclose to UBS information which would have been material to UBS's decision to enter the Restructured Transaction ("Omissions," as defined above). As Highland Capital and the Fund Counterparties knew, UBS reasonably relied upon those material misrepresentations and, due to the Omissions, a misstated assessment of the Fund Counterparties, all to its detriment in deciding whether to enter the Restructured Transaction. UBS reasonably and justifiably relied on these misrepresentations and Omissions of facts and

information that were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS reasonably believed that Highland Capital and the Fund Counterparties would not provide it with false, incomplete or otherwise misleading information about the Fund Counterparties' finances and assets as it in fact did.

48. For example, on or about December 28, 2007, to induce UBS to enter the Restructured Transaction and related Agreements, Gibran Mahmud of Highland Capital sent SOHC financial statements to UBS. On or about January 29, 2008, UBS requested additional financial information related to SOHC. Later that same day, to induce UBS to enter the Restructured Transaction and related Agreements, Phil Braner of Highland Capital emailed UBS a copy of SOHC's Statement of Financial Condition, dated December 31, 2007.

49. As described with more particularity below, the SOHC financial information that Highland Capital and the Fund Counterparties provided to UBS, which Highland Capital was responsible for preparing, was materially false and misleading. Highland Capital and the Fund Counterparties knew that UBS would rely upon SOHC's financial information in connection with deciding whether to agree to the Restructured Transaction and the terms of the Agreements being negotiated.

50. On or about February 4, 2008, Matt Killebrew of Highland Capital provided UBS with financial reports via email that reflected financial summaries, and aggregate valuations for CDO Fund's assets as of December 31, 2007. On or about March 4, 2008, Mr. Killebrew sent UBS similar reports for the period ended January 31, 2008. As described with more particularity below, these financial reports, which Highland Capital prepared, also were materially false and misleading. Highland Capital and the Fund Counterparties knew that

UBS would rely upon CDO Fund's financial information in connection with deciding whether to agree to the Restructured Transaction and the terms of the Agreements being negotiated.

51. The Fund Counterparties' financial statements falsely set forth the assets and resources that would be available to the Fund Counterparties to satisfy their obligations to UBS. In particular, as UBS would later learn, the financial information that Highland Capital and the Fund Counterparties provided to it during the restructuring negotiations failed to disclose that a material amount of CDO Fund's assets already had been pledged as collateral or otherwise encumbered in connection with other transactions involving other counterparties. These facts and information were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties.

52. CDO Fund's financial statements also materially overstated the cash position it held as of December 31, 2007. Specifically, the December 31, 2007 financial summary for CDO Fund that UBS received in connection with negotiating the restructuring falsely represented that CDO Fund held over \$22 million in cash when, in fact, as UBS subsequently learned after commencing the Highland Entity Action, CDO Fund's cash position as of December 31, 2007 was just over \$13 million, *i.e.*, approximately 50% lower. As CDO Fund's investment manager, Highland Capital knew at the time of the misrepresentation on February 4, 2008 the value of CDO Fund's cash assets. This misrepresentation was material because CDO Fund was offering to pledge \$10 million in cash to UBS as Initial Restructured Collateral. If UBS had known that CDO Fund was agreeing to a cash collateral obligation that would exhaust nearly all of its cash liquidity, UBS would not have entered the Restructured Transaction and would not have suffered the losses proximately caused by this misrepresentation.

53. Similarly, Highland Capital and the Fund Counterparties concealed from UBS the fact that the Fund Counterparties were simultaneously negotiating several financing arrangements with other parties pursuant to which SOHC had agreed to pledge a significant portion of its assets to Barclays Bank plc (“Barclays”), and CDO Fund would pledge a significant portion of its assets to Morgan Stanley & Co International Ltd., Highland Capital IV SPC and Citibank NA. This information was solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties.

54. In addition, the Fund Counterparties’ financial statements that Highland Capital and the Fund Counterparties provided to UBS in advance of the Restructured Transaction contained inflated and mistated valuations of their respective assets. As UBS ultimately discovered, the valuations assigned to the Fund Counterparties’ assets by Highland Capital and the Fund Counterparties were knowingly materially misstated and fraudulent. In particular, Highland Capital and the Fund Counterparties knew that the market quotations and other variables that they relied upon to value the Fund Counterparties’ assets were unreasonable or inaccurate given the market conditions existing at the time. Yet, they used those market quotations and variables to value the Fund Counterparties’ assets, including the Fund Counterparties’ interests in other Highland Capital affiliates, and to prepare the false and misleading financial reports that they provided to UBS in connection with negotiating the Restructured Transaction. Highland Capital had a financial incentive to ignore the inaccuracy of the market quotations, and use an unreasonable valuation methodology to inflate the Fund Counterparties’ asset values as Highland Capital earned management fees predicated, in part, on the value of the assets that it managed. The truth about Highland Capital’s and the Fund Counterparties’ valuation methodology was solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties.

55. During the course of negotiations concerning the restructuring, UBS also insisted that the Fund Counterparties have the ability to post \$70 million in cash and securities as collateral, which would be held at State Street Bank (the “Initial Restructured Transaction Collateral”), and in which UBS would hold a security interest. The Fund Counterparties’ ability to do so using their own assets was qualitatively and quantitatively material to UBS. Among other things, it demonstrated the strength of their balance sheets, and by extension, their ability to satisfy future obligations to UBS.

56. Highland Capital and the Fund Counterparties agreed that the Fund Counterparties would post \$70 million in Initial Restructuring Collateral. In or around November 2007, Highland Capital and the Fund Counterparties identified the assets that would be offered and eventually pledged to UBS as part of the Initial Restructuring Collateral. In particular, Highland Capital and the Fund Counterparties identified six specific assets that the Fund Counterparties would transfer to State Street for UBS’s benefit. As the Fund Counterparties’ investment manager, Highland Capital and the Fund Counterparties knew whether and to what extent the Fund Counterparties could pledge assets as collateral to UBS, as well as what assets the Fund Counterparties held to satisfy the collateral obligations being negotiated.

57. On or about November 26, 2007, UBS approved the list of collateral authorized and approved by Dondero to fulfill the Fund Counterparties’ Initial Restructuring Collateral obligations in connection with the Restructured Transaction. On January 15, 2008, Phil Braner of Highland Capital confirmed that the Fund Counterparties would be posting the Initial Restructuring Collateral. The securities first offered as part of the collateral in November 2007 were eventually transferred to State Street in accordance with the Warehouse Agreements.

58. Although Dondero was personally involved in the selection of the securities included as part of the Initial Restructuring Collateral, and he sent email to UBS regarding the same, in another Omission, Dondero failed to disclose that the assets being offered to UBS as collateral were not owned by the Fund Counterparties. As UBS would later learn, the Fund Counterparties did not own two of the six assets that Dondero, Highland Capital and the Fund Counterparties represented were Fund Counterparty assets. As the Fund Counterparties' investment manager, Highland Capital maintained the Fund Counterparties' accounting records, and knew who owned the assets that it was offering to UBS to satisfy the Initial Restructuring Collateral obligation. Facts and information concerning which Highland Capital affiliates owned certain assets was solely and peculiarly within the knowledge of Highland Capital and its affiliates. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to believe, and reasonably did not believe, that Highland Capital would provide it with false, incomplete or otherwise misleading information about the Fund Counterparties' assets or their ability to satisfy the Initial Restructuring Collateral obligations using their own assets.

59. If UBS had known that the Fund Counterparties did not have assets on their balance sheets available to satisfy the Initial Restructuring Collateral obligations that the parties had negotiated, UBS would not have agreed to the Restructured Transaction and the related Agreements. Information about the Fund Counterparties' available assets was solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. The Fund Counterparties' inability to satisfy their Initial Restructuring Collateral obligation using their own assets would have signaled to UBS that, despite the information on their financial statements, the Fund Counterparties' asset base and finances were not what they seemed. It also would have drawn into question the Fund Counterparties' liquidity. The fact that the Fund

Counterparties did not own these assets, and were not able to satisfy the Initial Restructuring Collateral obligations with their own assets, proximately caused injury to UBS.

60. But for Dondero's, Highland Capital's and the Fund Counterparties false and misleading statements and Omissions concerning the Fund Counterparties' finances and assets, and the Fund Counterparties' inability to satisfy collateral and loss obligations, UBS would not have entered into the Restructured Transaction or the Agreements that memorialized its terms. Given the Fund Counterparties' weak credit quality, additional adverse information about their collective or individual creditworthiness would have deterred UBS from going forward with the Restructured Transaction and putting more assets at risk. These misrepresentations and Omissions proximately caused harm to UBS.

61. UBS would not have entered into a transaction with parties that made misrepresentations as Highland Capital and the Fund Counterparties did. UBS also would not have agreed to release its valuable claims arising out of the Original Engagement under such circumstances. Because of, and in reliance on, the false and misleading information about the Fund Counterparties provided by Dondero, Highland Capital and the Fund Counterparties, UBS entered into the Restructured Transaction memorialized in the Agreements. Because each of the misrepresentations and Omissions identified above disguised the Fund Counterparties' inability to satisfy their obligations to UBS, the misrepresentations and Omissions proximately caused harm to UBS.

C. The Restructured Transaction Agreements

1. The Engagement Letter

62. On or about March 14, 2008, the parties reached agreement on the terms of a restructured engagement, which were memorialized in a new engagement letter (the "Engagement Letter," annexed hereto as Exhibit D). Pursuant to the Engagement Letter,

Highland Capital re-engaged UBSS to act as placement agent in the event that market conditions improved, and the parties could go forward with securitizing the Warehouse Assets already held by UBS in the Warehouse Facility. UBS agreed to continue holding the Warehouse Assets in the Warehouse Facility, which had a notional value of approximately \$818 million.

63. Under the terms of the Engagement Letter, UBS released claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement.

2. The Restructured Warehouse Agreements

64. On March 14, 2008, UBSS, the Fund Counterparties and Highland Capital also entered into a cash warehouse agreement (the "Cash Warehouse Agreement"), pursuant to which UBSS agreed to continue to hold the Cash Portfolio. (A true and correct copy of the Cash Warehouse Agreement is annexed hereto as Exhibit E.)

65. UBS AG, the Fund Counterparties and Highland Capital also entered into a synthetic warehouse agreement, dated as of March 14, 2008 (the "Synthetic Warehouse Agreement," and together with the Cash Warehouse Agreement, the "Warehouse Agreements"), pursuant to which UBS AG agreed to continue warehousing credit protection that it sold, *i.e.*, the CDS Portfolio. (A true and correct copy of the Synthetic Warehouse Agreement is annexed hereto as Exhibit F.)

66. Section 13(B) of the Cash Warehouse Agreement and § 11(B) of the Synthetic Warehouse Agreement make Highland Capital liable for losses, including losses in the Warehouse Facility, by reason of acts or omissions constituting bad faith, willful misconduct, or gross negligence.

67. Under § 12 of the Synthetic Warehouse Agreement, the Fund Counterparties agreed to transfer to State Street the Initial Restructuring Collateral to partially secure their respective obligations to UBS under the Warehouse Agreements. Annex C to the

Synthetic Warehouse Agreement identified the six assets that the Fund Counterparties purportedly transferred to State Street to satisfy their Initial Restructuring Collateral obligations, along with \$20 million in cash.

68. The Warehouse Agreements also contained releases whereby UBS agreed to release claims it had against Highland Capital and the Fund Counterparties for losses arising out of the Original Engagement.

D. Highland Capital Uses Its Control Over The Fund Counterparties To Dissipate Their Assets Without Regard For The Fund Counterparties' Growing Obligations To UBS

69. Almost immediately after the Restructured Transaction Agreements were executed, Highland Capital and the Fund Counterparties knowingly began to dissipate the Fund Counterparties' assets and make it impossible for the Fund Counterparties to ever repay UBS what they owed. Highland Capital and the Fund Counterparties did so at various times when the Fund Counterparties owed UBS hundreds of millions of dollars.

70. For example, on or about March 26, 2008, just days after entering the Restructured Transaction, Highland Capital caused certain SOHC assets to be encumbered by entering into a transaction with Barclays Bank, plc. ("Barclays"). At or around the same time, CDO Fund was negotiating financing arrangements with Morgan Stanley & Co. International Ltd. and Highland Capital IV SPC, whereby it granted a security interest in its assets to those entities. By granting a security interest in the Fund Counterparties' assets to other creditors, Highland Capital unfairly and improperly reduced the assets available to satisfy the Fund Counterparties' obligations to UBS in bad faith and in violation of UBS's rights.

71. Similarly, on or about April 2, 2008, Highland Capital advised UBS that CDO Fund had recently monetized a \$129 million long position in SunCom Wireless. When Highland Capital and CDO Fund subsequently provided UBS with additional financial

information about CDO Fund, however, UBS discovered that Highland Capital had caused CDO Fund to transfer approximately \$100 million of the cash proceeds from the SunCom Wireless sale out of CDO Fund.

72. By improperly removing such a substantial amount of cash from CDO Fund, Highland Capital interfered in bad faith with CDO Fund's ability to satisfy its steadily increasing financial obligations to UBS. In particular, in or around May 2008, when the cash proceeds from the SunCom Wireless position were siphoned off, the Fund Counterparties owed UBS in excess of \$166 million related to losses in the Warehouse Facility, approximately 50% of which CDO Fund was obligated to pay.

73. Highland Capital also repeatedly caused SOHC's cash to be transferred by Highland Financial. In particular, during the first five months of 2008, SOHC's cash position was reduced by over \$10 million at a time when its obligations to UBS were increasing substantially.

E. In the Fall of 2008, Losses Mount And The Fund Counterparties Face Collateral Calls From Creditors Including UBS That They Cannot Meet Despite Highland Capital's Belated Efforts To Do So By Ignoring Corporate Formalities

74. Under the terms of the Warehouse Agreements, the Fund Counterparties were required to post additional collateral with UBS if the combined market value of (a) the Warehouse Assets and (b) the Initial Restructured Transaction Collateral, declined below a certain amount.

75. By September 2008, losses in the Warehouse Facility had increased significantly. At the same time, the value of the Initial Restructuring Collateral had declined substantially, as had the value of the assets held by the Fund Counterparties.

76. Highland Capital was desperate to avoid a default by any of its affiliates, including the Fund Counterparties. If a Highland Capital affiliate defaulted on its obligations to a creditor, Highland Capital's reputation in the investment community would be damaged, and there was a risk that Highland Capital's business would collapse. Highland Capital feared that a public default would lead investors in Highland Capital's hedge fund family to withdraw their capital, and lead creditors to take aggressive actions to protect themselves, including foreclosing on collateral and aggressively enforcing their contractual rights.

1. The First Margin Call

77. On or about September 16, 2008, as losses in the Warehouse Facility continued to grow, UBS began to exercise its contractual rights and make margin calls demanding additional collateral from the Fund Counterparties. Specifically, UBS notified Highland Capital and the Fund Counterparties that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund Counterparties were each required to post \$10 million in cash or equivalent securities (the "First Margin Call").

78. Because Highland Capital had routinely drained cash from the Fund Counterparties, the Fund Counterparties lacked the liquidity to meet UBS's demands using their own assets.

79. On or about September 19, 2008, the Fund Counterparties satisfied the First Margin Call by together posting \$20 million in cash as additional collateral. As UBS would later learn, however, to satisfy the First Margin Call, Highland Capital had to cause SOHC's alter ego and parent, Highland Financial, to provide CDO Fund with \$5 million in cash. This transfer is further evidence of the alter ego relationship between Highland Financial and SOHC, as Highland Financial would not have provided CDO Fund with the \$5 million but for its alter ego relationship with SOHC and the control and domination exercised by Highland Capital.

2. UBS Is Harmed By Highland Capital's Response To The Fund Counterparties' Liquidity Crisis

80. In the wake of the First Margin Call, the Fund Counterparties remained starved for liquidity. Still desperate to avoid defaults to creditors and the consequences described above, Highland Capital resorted to commingling assets of various Highland Capital affiliates to generate short-term liquidity for the Fund Counterparties to satisfy obligations as they came due without regard for future mid-term and long-term obligations that they had. In doing so, Highland Capital consciously decided to continue to ignore the corporate formalities of the Fund Counterparties and the other affiliates that they controlled.

81. Highland Capital and the individuals that directed the Fund Counterparties knew that they had caused the Fund Counterparties to become incapable of satisfying their obligations to all of their respective creditors when they came due, and that they were insolvent or, at the very least, within the zone of insolvency.

82. For example, on or about September 26, 2008, Dondero and Highland Capital improperly caused Highland Financial to take on additional debt by offering notes to other Highland affiliates, including CDO Fund, in exchange for cash-generating assets, which it hoped would allow SOHC to address short-term cash needs, and satisfy obligations SOHC had to Barclays under both a swap financing facility and a separate guarantee arrangement between SOHC and Barclays.

83. Pursuant to the note offering, Highland Financial acquired approximately \$321 million of risky CLO assets (CLO mezzanine paper and CLO equity assets), and life settlement insurance contracts from the Affiliated Transferees in exchange for senior secured notes in a principal amount of approximately \$316 million with a maturity date of 2018 (the "September 2008 Note Offering," and the notes issued in connection therewith, the "September

2008 Notes”). The September 2008 Note Offering required Highland Financial to make amortized payments to the Affiliated Transferees each quarter starting in February 2009 of \$15 million. Highland Financial also was required to transfer a security interest to the Affiliated Transferees in the shares it held of two wholly-owned subsidiaries — HFP Asset Funding II and HFP Asset Funding III — into which Highland Financial transferred the assets that it received from the Affiliated Transferees.

84. The granting of this security interest and related asset transfers constituted fraudulent conveyances, which made payment by the Fund Counterparties and Highland Financial of their obligations to UBS impossible and defrauded UBS. At the time of the September 2008 Note Offering, Highland Financial, as SOHC’s alter ego, owed UBS hundreds of millions of dollars that it could not pay. The September 2008 Note Offering and related asset transfers were not arm’s-length transactions or done for reasonably equivalent value. Dondero and Highland Capital caused Highland Financial to grant the security interest to affiliated insiders. Afterwards, Highland Financial concealed the security interest that it had granted to the Affiliated Transferees from UBS.

85. On or about October 7, 2008, Highland Capital proposed that Highland Financial conduct an additional note offering on the same terms as the September 2008 Note Offering. In accordance with Highland Capital’s proposal, Highland Financial issued an additional \$55,488,000 of 10% Senior Secured Notes due 2018 to be given to the Crusader Fund (the “October 2008 Note Offering,” and together with the September 2008 Note Offering, the “Fall 2008 Note Offerings,” and the notes issued in connection therewith, together with the September 2008 Notes, the “Fall 2008 Notes”). As a result of the October 2008 Note Offering, Highland Financial’s debt obligation to the Affiliated Transferees was \$371,458,681, plus interest. The granting of a security interest and related asset transfers in connection with the

October 2008 Note Offering constitute fraudulent conveyances for substantially identical reasons as the conveyances made in connection with the September 2008 Note Offering.

86. Highland Capital caused Highland Financial and SOHC to use the assets that they acquired to pay down a substantial portion of SOHC's debt to Barclays to the detriment of UBS. Highland Capital executed this plan at UBS's expense to protect their substantial personal stake in Highland Financial and prevent negative publicity associated with defaulting on obligations to Barclays. Implementing this plan, however, caused SOHC (and its alter ego, Highland Financial) to improperly and in bad faith breach duties and obligations to UBS.

87. When SOHC and its alter ego, Highland Financial, used up their cash flows to pay Barclays, SOHC's expected obligations to UBS were well in excess of \$250 million, which were due and owing to UBS no later than March 14, 2009. Thus, by favoring Barclays over UBS, Highland Capital and the Fund Counterparties made a fraudulent conveyance and interfered in bad faith with the Fund Counterparties' ability to meet their contractual obligations to UBS.

88. Given the state of the financial markets at the time, Highland Capital, Highland Financial and SOHC had no expectation that SOHC would be able to satisfy its obligations to UBS when they came due. Indeed, not only was SOHC insolvent (or, at the very least, within the zone of insolvency), but Highland Financial, SOHC's alter ego, also was insolvent (or, at the very least, within the zone of insolvency), and would be certified insolvent by Highland Capital by year-end. Consequently, the payments to Barclays constituted fraudulent conveyances that interfered in bad faith with SOHC's obligations under the Warehouse Agreements. By orchestrating and causing the fraudulent transfers and improper payments to Barclays to protect its own self-interest, Highland Capital interfered in bad faith with UBS's contract with SOHC.

89. In addition to the foregoing, CDO Fund used the Fall 2008 Notes that it received in exchange for substantially all of its unencumbered assets to satisfy obligations to Citibank, NA (“Citi”). This too constituted an improper transfer as it was made by CDO Fund at a time when it was insolvent, and with an intention to give Citi a preference over UBS.

3. The Second Margin Call

90. On or about October 21, 2008, UBS notified Highland Capital that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund Counterparties each owed another \$10 million (the “Second Margin Call”).

91. In response to the Second Margin Call, Highland Capital offered UBS numerous assets as collateral. UBS rejected those offers for various business-related reasons. As UBS would later learn, however, at the time Highland Capital was offering the assets to UBS, the Fund Counterparties did not own them.

92. On or about October 24, 2008, the Fund Counterparties satisfied the Second Margin Call by together posting assets with a notional value of \$49.97 million (but a market value of approximately \$20 million), with the understanding that UBS would authorize State Street to return the securities if and when the Fund Counterparties were able to replace those securities with \$20 million in cash. As UBS would later learn, the Fund Counterparties did not own and failed to disclose that four of the assets used to satisfy the Second Margin Call were owned by HFP Asset Funding II, one of SOHC’s affiliated sister funds which, like SOHC, was controlled by Highland Financial and Highland Capital.

93. Moreover, at the same time that Highland Capital was telling UBS that the Fund Counterparties did not have sufficient cash assets to meet the Second Margin call, Highland Capital was using the liquid resources available to SOHC (through its alter ego,

Highland Financial) to make payments to another SOHC creditor, i.e., Barclays, which improperly favored Barclays over UBS, and directly and proximately caused injury to UBS.

4. The Third Margin Call

94. On or about November 7, 2008, UBS notified Highland Capital and the Fund Counterparties that, pursuant to § 12(C) of the Synthetic Warehouse Agreement, the Fund Counterparties had an obligation to post another \$10 million as collateral (the “Third Margin Call”).

95. On or about November 11, 2008, Highland Capital and the Fund Counterparties offered to post various securities to satisfy the Third Margin Call. In response to the Third Margin Call, Phil Braner of Highland Capital emailed UBS a list of proposed collateral including eight securities with a purported market value of approximately \$20 million (i.e., twice the amount of cash due to satisfy the Third Margin Call).

96. Pursuant to the Warehouse Agreements, UBS was authorized to reject proposed collateral. UBS determined that the proposed additional collateral offered by Highland Capital and the Fund Counterparties was unacceptable. On or after November 13, 2008, UBS formally rejected the offered securities, and requested that the Fund Counterparties provide cash or cash equivalent collateral to satisfy their obligations under § 12(C) of the Synthetic Warehouse Agreement.

97. UBS would later learn that neither of the Fund Counterparties owned the assets that Highland Capital proposed using to satisfy the Third Margin Call. Rather, SOHC’s affiliate, HFP Asset Funding II owned each of the eight assets that Highland Capital had proposed using to satisfy the Third Margin Call.

98. When UBS confronted Highland Capital about this issue Mr. Braner of Highland Capital explained that Highland Capital could (and was willing to) exercise its control

over the various Highland-affiliated funds to move assets between and among the affiliated funds, thereby making assets available to UBS from Highland-affiliated funds other than the Fund Counterparties. Mr. Braner explained how Highland Capital could effectuate the asset transfers by simply ignoring corporate formalities, transferring assets among companies, utilizing accounting entries and otherwise taking advantage of the corporate relationship shared by the various Highland-affiliated funds to engineer non-arm's-length transactions. Mr. Braner also divulged to UBS that Highland Capital was willing to ignore corporate formalities because it wanted to avoid any further reputational harm to Highland Capital and the Highland organization that would occur if the Fund Counterparties defaulted on UBS's margin calls.

F. Termination Of The Agreements And Demand For Payment of Losses

99. As of December 3, 2008, the Fund Counterparties still had not met the Third Margin Call in accordance with § 12(C) of the Synthetic Warehouse Agreement. This failure resulted in UBS's declaration of a termination date ("Termination Date") under the Agreements.

100. On December 3, 2008, UBS delivered a letter (the "Termination Date Letter") to Highland Capital and the Fund Counterparties notifying them of such failure and the occurrence of a Termination Date under each Agreement. (A true and correct copy of the Termination Date Letter is annexed hereto as Exhibit G.)

101. Sections 5 and 7 of the Cash Warehouse Agreement provided that if the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to March 14, 2009, UBSS could, in its sole discretion, retain any of the securities in the Warehouse Facility or sell such securities to one of UBSS's affiliates or an unaffiliated party.

102. Pursuant to the terms of the Agreements, if the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to

March 14, 2009, each of the Fund Counterparties was obligated to pay to UBS its pro rata share of any market value losses on the Warehouse Assets, which UBS determined it had experienced and so notified Highland Capital and the Fund Counterparties.

103. On December 19, 2008, UBSS delivered a letter (the “Cash Warehouse Demand Letter”) to Highland Capital and the Fund Counterparties demanding payment for its losses. (A true and correct copy of the Cash Warehouse Demand Letter is annexed hereto as Exhibit H.) UBSS demanded that Highland Capital and the Fund Counterparties wire that required amount to UBSS no later than 5:00 pm on December 24, 2008 (i.e., the third business day after the date of the Cash Warehouse Demand Letter) (the “Final Payment Date”). Highland Capital and the Fund Counterparties failed to make the required payment to UBSS.

104. The Synthetic Warehouse Agreement provided that in the event the closing date of the securitization contemplated by the Restructured Transaction failed to occur on or prior to March 14, 2009, the Fund Counterparties would be collectively responsible for 100% of the aggregate amount of losses on the CDS Portfolio and each of the Fund Counterparties would pay, after notice of such amount due from UBS, its pro rata share of such amount to UBS within three business days.

105. On December 19, 2008, UBS AG delivered a letter (the “Synthetic Warehouse Demand Letter”) to Highland Capital and the Fund Counterparties demanding payment for its losses. (A true and correct copy of the Synthetic Warehouse Demand Letter is annexed hereto as Exhibit I.) UBS AG demanded that the Highland Capital and the Fund Counterparties wire the required amount to UBS AG no later than 5:00 PM on the Final Payment Date (i.e., December 24, 2008 — the third business day after the date of the Synthetic Warehouse Demand Letter). Highland Capital and the Fund Counterparties failed to make the required payment to UBS AG.

G. Notice of Failure To Pay, Auction And Final Accounting Letter

106. On January 5, 2009, UBS notified Highland Capital and the Fund Counterparties of the failure to make the requisite payments when due pursuant to the Agreements and the applicable demand letters. On or about January 16, 2009, in connection with unwinding the Warehouse Facility, UBS conducted the auction contemplated by the Warehouse Agreements.

107. On or about March 19, 2009, UBS delivered a letter to Highland Capital and the Fund Counterparties concerning a final accounting concerning the auction and the losses in the Warehouse Facility. UBS determined that Highland Capital and the Fund Counterparties owed it \$686,853,290.26.

H. Highland Capital Renders The Fund Counterparties Judgment-Proof To Avoid Their Obligations To UBS

108. Prior to December 31, 2008, Highland Financial was insolvent. During the fourth quarter of 2008, Highland Financial's book value declined below zero. As a result, each of the limited partners' interests in Highland Financial had no value. Likewise, SOHC was insolvent.

109. In December 2008, immediately after UBS terminated the Restructured Transaction, Dondero and Highland Capital executed a plan to continue to reduce UBS's ability to recover from the Fund Counterparties. Among other things, Dondero and Highland Capital began the process of ensuring that Highland Financial and SOHC were insolvent and unable to meet their obligations to UBS by transferring assets from Highland Financial (and its subsidiaries) to the Affiliated Transferees. Dondero and Highland Capital tried to hide this fraudulent conveyance by tying it to the cancellation of the Fall 2008 Notes.

110. On or about February 24, 2009, UBS commenced the Highland Entity Action against Highland Capital and the Fund Counterparties. At the time, SOHC and Highland Financial, as its alter ego, owed UBS approximately \$345 million.

111. Undeterred, on or about March 17, 2009, Dondero and Highland Capital caused SOHC's parent and alter ego, Highland Financial, to transfer virtually all of its (and SOHC's) assets to Highland Capital and the Affiliated Transferees, including millions of dollars worth of assets to which they were not entitled (the "March 2009 Fraudulent Conveyance"). In particular, on March 17, 2009, Highland Capital caused assets with a purported value of \$239 million to be transferred from Highland Financial and its subsidiaries to the Affiliated Transferees, including assets from two Highland Financial subsidiaries that had no obligations to the Affiliated Transferees: Highland Financial Real Estate and CDO HoldCo. (a/k/a HFP Asset Funding I). Among other things, in connection with the March 2009 Fraudulent Conveyance, Highland Capital and the Affiliated Transferees improperly received the following assets from Highland Financial:

- HCF received (a) STRAF-1A (Floating – 11/2021 – D – 86280AAF4), (b) Red River (Floating – 07/2018 – E – 75686XAA8), (c) REIT - HE 1001 West Loop Project LLC and (d) REIT - HE 2425 West Loop, L.P.
- The Crusader Fund received (a) STRAF 2007-1A (Floating – 11/2021 – C – 86280AE7), (b) ROCKW 2007-1A A3L, (c) STRAF 2007-1A (C tranche), (d) Ginn LA Conduit Lender, Inc. (First Lien Tranche A Credit Linked Deposit) and (e) Ginn LA Conduit Lender, Inc. (First Lien Tranche B Term Loan).
- Highland Capital received the following REIT interests: (a) HE Capital KR, LLC, (b) HE Mezz KR, LLC, (c) HCREA Breckenridge, L.P., (d) HCREA Lockhill Retail, L.P., (e) HCREA Nolen Drive, L.P., (f) HCREA Trimarchi, (g) HE Sugar Lend Project, LLC and (h) NBREC Highland Village.

112. As a result, Highland Capital (a) further interfered in bad faith with UBS's contractual rights and the Fund Counterparties' contractual obligations under the Warehouse Agreements, thereby breaching the covenants of good faith and fair dealing inherent in the Warehouse Agreements; and (b) caused the fraudulent conveyance of assets from SOHC's alter ego and parent, Highland Financial, to various other Highland affiliates.

113. At the time of the March 2009 Fraudulent Conveyance, the assets that Highland Financial transferred to the Affiliated Transferees were worth millions of dollars. Because these assets were fraudulently transferred, they were not available to SOHC, and Highland Financial as SOHC's alter ego, to satisfy their debt to UBS under the Warehouse Agreements. UBS had a legal interest in, and right to the fraudulently transferred assets, as a creditor of SOHC, Highland Financial's alter ego. Consequently, as a direct and proximate cause of the March 2009 Fraudulent Conveyance, UBS was injured. The full extent of UBS's injury should be determined at trial.

114. The March 2009 Fraudulent Conveyance was not an arm's-length transaction or for reasonably equivalent value. Dondero, Highland Capital and Highland Financial knew that transferring those assets to Highland Capital and Affiliated Transferees would be a fraudulent transfer, interfere in bad faith with the Fund Counterparties' ability to meet their obligations to UBS under the Warehouse Agreement and otherwise be improper. For example, at Highland Financial's March 17, 2009 board meeting, in connection with approving the March 2009 Fraudulent Conveyance, those in attendance discussed how the March 2009 Fraudulent Conveyance should be considered in light of (a) the Highland Entity Action commenced by UBS against Highland Capital and SOHC, and (b) Highland Financial's active consideration of bankruptcy as an option to deal with its inability to satisfy its obligations to creditors.

FIRST CAUSE OF ACTION
(Fraud)

115. UBS repeats and realleges the allegations set forth in paragraphs 1 through 114 of this Complaint as if fully set forth herein.

116. In connection with restructuring the Original Engagement, and negotiating the terms of the Agreements and Restructured Transaction, Highland Capital and the Fund Counterparties had a duty to communicate accurate and complete information to UBS.

117. As alleged above, in connection with negotiating the Restructured Transaction, Highland Capital and the Fund Counterparties intentionally misrepresented material facts and made Omissions (as defined earlier herein).

118. As set forth in more detail above, prior to the restructuring being completed, and the Agreements being executed, Highland Capital and the Fund Counterparties misrepresented information and made Omissions to UBS concerning the creditworthiness of the Fund Counterparties as well as information about their finances and assets, including, but not limited to, information regarding the following:

- (a) the Fund Counterparties' inability to satisfy the Initial Restructuring Collateral obligations using their own assets;
- (b) the size of CDO Fund's cash position; and
- (c) the material inaccuracy of the summary asset valuations provided by Highland Capital and the Fund Counterparties.

119. Highland Capital and the Fund Counterparties acted knowingly and purposefully in making the materially false representations and Omissions to UBS in connection with negotiating the Restructured Transaction to induce UBS to enter the Agreements. Highland Capital and the Fund Counterparties knew that their representations and Omissions were materially false and misleading. Knowingly using material misrepresentations and Omissions,

Highland Capital and the Fund Counterparties intended to induce, and fraudulently induced UBS into entering the Agreements.

120. Highland Capital and the Fund Counterparties also knew that their false representations and Omissions were material to and caused UBS's decision to enter the Agreements. In particular, the misrepresentations and Omissions were both quantitatively and qualitatively material to UBS inasmuch as UBS would have acted differently had it known the truth about the Fund Counterparties' finances and assets when UBS made the decision to go forward with the restructuring and releasing, among other things, valuable claims against Highland Capital.

121. UBS was not aware and could not have been aware of the falsity and misleading nature of Highland Capital's and the Fund Counterparties' misrepresentations and Omissions. The facts and information underlying the false, inaccurate and incomplete financial reports that Highland Capital provided to UBS in connection with negotiating the Restructured Transaction were peculiarly within Highland Capital's and the Fund Counterparties' knowledge.

122. Highland Capital and the Fund Counterparties had superior knowledge compared to UBS about Highland Capital's and the Fund Counterparties' finances and assets. Indeed, such facts and information were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Moreover, it was necessary for Highland Capital and the Fund Counterparties to complete or clarify the information that it provided to UBS concerning the Fund Counterparties' finances and assets. Consequently, Highland Capital's and the Fund Counterparties' concealment of the Fund Counterparties' finances and assets was fraudulent.

123. UBS reasonably and justifiably relied to its detriment on Highland Capital's and the Fund Counterparties' misrepresentations and Omissions regarding the Fund Counterparties' financial condition and assets. In particular, UBS reasonably and justifiably

relied on misrepresentations and Omissions of facts and information solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to question the veracity and completeness of the financial information that Highland Capital provided to UBS about the Fund Counterparties' finances and assets. UBS also had no reason to believe that the financial information that Highland Capital provided to it to induce UBS to enter the Restructured Transaction would be false, incomplete or otherwise misleading. When UBS evaluated the Fund Counterparties' financial statements in early 2008, it did not know about Highland Capital's and the Fund Counterparties' false asset valuations and methodology nor did UBS know of Highland Capital's plan to enter additional financing arrangements, and to encumber the Fund Counterparties' assets in connection with those transactions, thereby reducing the assets to which UBS could look to satisfy the Fund Counterparties' contractual obligations. UBS also did not know that Highland Capital and the Fund Counterparties provided it with false and misleading information, or that they had concealed material information from UBS about the Fund Counterparties' finances and assets.

124. But for Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions, UBS would not have entered the Agreements, or released its claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement.

125. In reasonable and justifiable reliance on the foregoing material misrepresentations and Omissions, UBS also surrendered and released valuable claims against Highland Capital and the Fund Counterparties at a time when UBS could have been made whole for the losses that it had suffered to that point as a result of the Original Engagement. Nor would UBS have suffered the additional losses in the Warehouse Facility.

126. UBS reasonably relied to its detriment on Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions. As a direct and proximate result of Highland Capital's and the Fund Counterparties' misrepresentations and Omissions, UBS continued to maintain the Warehouse Facility through, at least, December 3, 2008, suffering in excess of \$686 million in losses that the Fund Counterparties cannot pay to UBS.

127. Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions were the direct and proximate cause of UBS's losses complained of herein. As a direct result of, and in reliance upon, Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions, UBS was induced to, among other things, (a) enter the Agreements; (b) release its pre-existing claims against Highland Capital and the Fund Counterparties related to the Original Engagement; and (c) assume the credit-risk of the Fund Counterparties; and as a direct result, caused UBS to incur substantial losses and damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION
(Fraud)
(Pled Solely To Preserve For Appeal)

128. UBS repeats and realleges the allegations set forth in paragraphs 1 through 127 of this Complaint as if fully set forth herein.

129. In connection with restructuring the Original Engagement, and negotiating the terms of the Agreements and Restructured Transaction, Highland Capital and the Fund Counterparties had a duty to communicate accurate and complete information to UBS.

130. As alleged above, in connection with negotiating the Restructured Transaction, Highland Capital and the Fund Counterparties intentionally misrepresented material facts and made Omissions (as defined earlier herein).

131. As set forth in more detail above, prior to the restructuring being completed, and the Agreements being executed, Highland Capital and the Fund Counterparties misrepresented information and made Omissions to UBS concerning the creditworthiness of the Fund Counterparties and information about their finances, assets and business practices, including, but not limited to, information regarding the following:

- (a) the Fund Counterparties having pledged and encumbered a substantial portion of its assets prior to entering the Agreements;
- (b) CDO Fund's having pledged and encumbered a substantial portion of its assets prior to entering the Agreements;
- (c) Highland Capital's and the Fund Counterparties' plan to encumber more of the Fund Counterparties' assets, including immediately after March 14, 2008;
- (d) the commingling of assets between and among the various entities related to Highland Capital and the Fund Counterparties;
- (e) the practice of shuttling assets between the Fund Counterparties and their affiliates to satisfy the Fund Counterparties' day-to-day expenses, liquidity and financial statement needs;
- (f) Highland Capital's and the Fund Counterparties' disregard for the corporate form in managing the Fund Counterparties' assets; and
- (g) SOHC's liquidity problems, and need to borrow money from Highland Capital to satisfy its Initial Restructuring Collateral obligations.

132. Highland Capital and the Fund Counterparties acted knowingly and purposefully in making the materially false representations and Omissions to UBS in connection with negotiating the Restructured Transaction to induce UBS to enter the Agreements. Highland Capital and the Fund Counterparties knew that their representations and Omissions were materially false and misleading. Knowingly using material misrepresentations and Omissions,

Highland Capital and the Fund Counterparties intended to induce, and fraudulently induced UBS into entering the Agreements.

133. These Omissions rendered the Fund Counterparties' representations, statements and financial statements materially misleading. Because Highland Capital and the Fund Counterparties concealed this information from UBS, UBS could not properly evaluate SOHC's ability to satisfy its obligations to UBS. For instance, UBS received financial reports from Highland Capital for the Fund Counterparties that suggested that the Fund Counterparties held hundreds of millions of dollars worth of assets that could be used to satisfy their obligations to UBS. However, a substantial portion of the assets that UBS reasonably believed would be available, were, in fact, not going to be available to pay UBS because they were going to be encumbered as a result of other transactions. In other words, because Highland Capital concealed its intentions, the financial reports that it provided to UBS were misleading as they provided UBS with false and illusory comfort regarding the Fund Counterparties' capacity to fulfill their contractual obligations to UBS. As the Fund Counterparties' investment manager, Highland Capital would have led the negotiations related to the other financing arrangements.

134. Similarly, during negotiations concerning the Initial Restructuring Collateral, Highland Capital and SOHC made an additional Omission by not disclosing to UBS the fact that SOHC had a serious liquidity problem. SOHC had to borrow cash from Highland Capital to satisfy the cash portion of its Initial Restructuring Collateral obligation. On or about December 18, 2007, while the parties were negotiating the restructuring, Highland Capital loaned \$30 million to SOHC, which Highland Capital and SOHC's alter ego, Highland Financial, earmarked for SOHC to use as collateral in connection with negotiating extensions of warehouse facilities, including the one with UBS. As Highland Financial's and SOHC's investment manager, Highland Capital knew about SOHC's liquidity problems since they were

discussed openly at Highland Financial board meetings attended by Highland Capital. The failure to fully disclose SOHC's liquidity problem, and its inability to meet the Initial Restructuring Collateral obligation using its own cash assets was an Omission, because it was indicative of the strength of SOHC's finances and assets, and SOHC's ability to satisfy obligations to UBS.

135. Highland Capital and the Fund Counterparties also concealed from UBS that Highland Capital had to commingle assets among its various affiliates and disregard corporate formalities to satisfy the Fund Counterparties' liquidity needs. Facts and information concerning these business practices, including Highland Capital's commingling of assets and disregard of corporate formalities was information solely and peculiarly within the knowledge of Highland Capital and its affiliates. As the investment manager to Highland Financial, SOHC and CDO Fund (as well as the Affiliated Transferees), Highland Capital knowingly arranged and caused the asset transfers between and among the various affiliates in disregard of corporate formalities.

136. Highland Capital and the Fund Counterparties also knew that their false representations and Omissions were material to and caused UBS's decision to enter the Agreements. In particular, the misrepresentations and Omissions were both quantitatively and qualitatively material to UBS inasmuch as UBS would have acted differently had it known the truth about the Fund Counterparties' finances, assets and business practices when UBS made the decision to go forward with the restructuring and releasing, among other things, valuable claims against Highland Capital.

137. In addition, if UBS had known that Highland Capital and the Fund Counterparties ignored corporate formalities or that Highland Capital freely transferred assets

among its controlled entities, UBS would not have entered the Restructured Transaction. These misrepresentations and Omissions proximately caused harm to UBS.

138. UBS was not aware and could not have been aware of the falsity and misleading nature of Highland Capital's and the Fund Counterparties' misrepresentations and Omissions. The facts and information underlying the false, inaccurate and incomplete financial reports that Highland Capital and the Fund Counterparties provided to UBS in connection with negotiating the Restructured Transaction were peculiarly within Highland Capital's and the Fund Counterparties' knowledge.

139. Highland Capital and the Fund Counterparties had superior knowledge compared to UBS about Highland Capital's and the Fund Counterparties' finances, assets and business practices. Indeed, such facts and information were solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Moreover, it was necessary for Highland Capital and the Highland Entities to complete or clarify the information that it provided to UBS concerning the Fund Counterparties' finances, assets and business practices. Consequently, Highland Capital's and the Fund Counterparties' concealment about the Fund Counterparties' finances, assets and business practices was fraudulent.

140. UBS reasonably and justifiably relied to its detriment on Highland Capital's and the Fund Counterparties' misrepresentations and Omissions regarding the Fund Counterparties' financial condition, assets and business practices. In particular, UBS reasonably and justifiably relied on misrepresentations and Omissions of facts and information solely and peculiarly within the knowledge of Highland Capital and the Fund Counterparties. Given UBS's prior dealings with Highland Capital and its affiliates, as well as Highland Capital's size and presence in the market, UBS had no reason to question the veracity and completeness of the financial information that Highland Capital provided to UBS about the Fund Counterparties'

finances, assets and business practices. UBS also had no reason to believe that the financial information that Highland Capital and the Fund Counterparties provided to it to induce UBS to enter the Restructured Transaction would be false, incomplete or otherwise misleading. When UBS evaluated the Fund Counterparties' financial statements in early 2008, it did not know of Highland Capital's plan to enter additional financing arrangements, and to encumber the Fund Counterparties' assets in connection with those transactions, thereby reducing the assets to which UBS could look to satisfy the Fund Counterparties' contractual obligations. Nor did UBS know about Highland Capital's and the Fund Counterparties' false asset valuations and methodology. UBS also did not know that Highland Capital and the Fund Counterparties provided it with false and misleading information, or that they had concealed material information from UBS about the Fund Counterparties' assets, finances and business practices.

141. But for Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions, UBS would not have entered the Agreements, or released its claims against Highland Capital and the Fund Counterparties arising out of the Original Engagement.

142. In reasonable and justifiable reliance on the foregoing material misrepresentations and Omissions, UBS also surrendered and released valuable claims against Highland Capital and the Fund Counterparties at a time when UBS could have been made whole for the losses that it had suffered to that point as a result of the Original Engagement. Nor would UBS have suffered the additional losses in the Warehouse Facility.

143. UBS reasonably relied to its detriment on Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions. As a direct and proximate result of Highland Capital's and the Fund Counterparties' misrepresentations and Omissions, UBS

continued to maintain the Warehouse Facility through, at least, December 3, 2008, suffering in excess of \$686 million in losses that the Fund Counterparties cannot pay to UBS.

144. Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions were the direct and proximate cause of UBS's losses complained of herein. As a direct result of, and in reliance upon, Highland Capital's and the Fund Counterparties' material misrepresentations and Omissions, UBS was induced to, among other things, (a) enter the Agreements; (b) release its pre-existing claims against Highland Capital and the Fund Counterparties related to the Original Engagement; and (c) assume the credit-risk of the Fund Counterparties; and as a direct result, caused UBS to incur substantial losses and damages in an amount to be determined at trial.

145. Paragraphs 145 to 156 have been intentionally left blank.

THIRD CAUSE OF ACTION
(Breach of Covenant of Good Faith and Fair Dealing)

157. UBS repeats and realleges the allegations set forth in paragraphs 1 through 156 of this Complaint as if fully set forth herein.

158. The Agreements are valid and binding contracts. As such, they each contain an implied covenant of good faith and fair dealing. UBS has fully performed all of its obligations under the Agreements.

159. Highland Capital controlled the Fund Counterparties through both its direct and indirect ownership and other interests in various entities, including the Fund Counterparties, and its role as investment manager for the Fund Counterparties.

160. When it entered the Agreements, Highland Capital agreed that UBS would not have to bear the risk of loss in connection with the Warehouse Assets that UBS held in the Warehouse Facility. Instead, Highland Capital agreed that the Fund Counterparties, which

Highland Capital controlled, would bear 100% of the risk of loss in connection with the Restructured Transaction.

161. Highland Capital had an implied duty of good faith not to take (or fail to take) any actions that would frustrate the clear intent of the parties that UBS would not have to bear any of the risk of losses in the Warehouse Facility. In particular, the implied covenant of good faith and fair dealing inherent in the Agreements barred Highland Capital from taking affirmative measures that increased the likelihood that the Fund Counterparties would be unable to bear losses in connection with the Restructured Transaction.

162. Highland Capital breached the implied covenant of good faith and fair dealing implied in the Agreements by taking affirmative actions (and refraining from taking other actions) that impaired UBS's ability to recover losses from the Fund Counterparties as contemplated by the Agreements, and by making it impossible for the Fund Counterparties to pay UBS what they owed it under the terms of the Warehouse Agreements.

163. Specifically, as described above, between March 14, 2008 and December 3, 2008, as losses in the Warehouse Facility grew, Highland Capital exercised its control over the Fund Counterparties to dissipate the Fund Counterparties' assets and transfer their assets to other Highland affiliates, principals and creditors, thereby impairing the Fund Counterparties' ability to bear losses in the Warehouse Facility. Highland Capital transferred assets out of the Fund Counterparties during the course of the Restructured Transaction in bad faith, and to UBS's detriment. Given its knowledge of the Fund Counterparties' obligations to UBS, the transfers caused by Highland Capital violated the duty of good faith and fair dealing owed by Highland Capital to UBS under the Agreements.

164. Highland Capital also granted security interests in certain of the Fund Counterparties' assets to third parties during the course of the Restructured Transaction. By

encumbering the Fund Counterparties' assets, Highland Capital impaired the Fund Counterparties' ability to make UBS whole for losses. Given their knowledge of the Fund Counterparties' obligations to UBS, the encumbrances that Highland Capital caused violated the duty of good faith and fair dealing owed by Highland Capital to UBS under the Agreements.

165. Highland Capital also used its control over the Fund Counterparties to give preferred treatment to other creditors, all to UBS's detriment. Highland Capital also caused the March 2009 Fraudulent Conveyance, which transferred assets to which UBS was entitled to the Affiliated Transferees and Highland Capital.

166. As a result of Highland Capital's breaches of the duty of good faith and fair dealing implied in the Agreements, UBS has incurred losses that should have been borne by the Fund Counterparties. UBS has suffered and will continue to suffer losses and damages in an amount to be determined at trial.

FOURTH CAUSE OF ACTION
(Fraudulent Conveyances)

167. UBS repeats and realleges the allegations set forth in paragraphs 1 through 166 of this Complaint as if fully set forth herein.

168. Between March 14, 2008 and December 3, 2008, as losses in the Warehouse Facility grew, Highland Capital exercised its control over the Fund Counterparties and caused the Fund Counterparties to transfer valuable cash and assets out of the Fund Counterparties, thereby impairing their ability to bear losses in the Warehouse Facility, and otherwise satisfy their obligations to creditors, including UBS. In the Fall of 2008 and in March 2009, Highland Capital also caused Highland Financial to engage in asset transfers intended to hinder, delay and defraud UBS.

169. The asset transfers that Highland Capital and Highland Financial caused to be made from SOHC were intended to defraud UBS as they were intended to defeat SOHC's obligations to UBS as evidenced by, among other things, the fact that (a) the transfers were made to insider affiliates, (b) the transfers were made when SOHC was insolvent or became insolvent shortly thereafter, (c) the transfers were made by commingling corporate assets of various Highland Financial affiliates, and otherwise in disregard of various corporate formalities and/or (d) the transfers occurred shortly after a substantial debt was incurred by SOHC. The asset transfers from SOHC also were made for no valuable consideration and less than reasonably equivalent value.

170. For example, as alleged above, in the Fall of 2008, SOHC made payments to Barclays at a time when it was insolvent (or shortly before it became insolvent), and without regard for UBS's rights as a creditor of SOHC. In connection with making those payments to Barclays, Highland Capital caused Highland Financial to disregard corporate formalities and commingle assets between its subsidiaries, including SOHC so that SOHC could pay Barclays, and Highland Capital could avoid any consequences of a default to Barclays. In doing so, however, Highland Capital and SOHC intended to defeat an obligation owed to UBS. In addition, during the course of the Restructured Transaction, Highland Capital caused SOHC to make a number of upstream dividend payments to Highland Financial in exchange for no consideration or no fair consideration to SOHC, or consideration that had significantly less value than the dividend payments. These payments were made shortly after SOHC incurred its substantial debt to UBS.

171. The asset transfers that Highland Capital caused to be made from CDO Fund were made with the intention to defraud UBS as the dominant purpose of the assets transfers from CDO Fund was to put CDO Fund's property and assets beyond the reach of UBS.

In particular, Highland Capital's and CDO Fund's intention to place property and assets beyond the reach of UBS is evidenced by, among other things, the fact that (a) the transfers were made to insider affiliates, (b) CDO Fund, through Highland Capital, retained control over the assets transferred after the transfer, (c) Highland Capital concealed details concerning the transfers from UBS, (d) the transfer involved substantially all of CDO Fund's valuable assets, (e) at the time of the transfers, CDO Fund was insolvent or became insolvent shortly thereafter, (f) the transfer occurred shortly after a substantial debt was incurred by CDO Fund and (g) CDO Fund transferred assets to an intermediary who subsequently transferred the assets to an insider affiliate. The asset transfers from CDO Fund also were made for no valuable consideration, or consideration that was less than reasonably equivalent value.

172. At the time of the asset transfers from CDO Fund, it was reasonably foreseeable to CDO Fund and Highland Capital that CDO Fund was going to owe UBS substantial sums of money well in excess of \$100 million. It also was reasonable for Highland Capital and CDO Fund to believe that after the CDO Fund transfers, CDO Fund would be unable to pay its liabilities as they came due. At the time of CDO Fund's fraudulent conveyances, CDO Fund owed a contingent liability to UBS, and since the time of the transfers, the contingency giving rise to the obligation has occurred, and that obligation remains unsatisfied. CDO Fund's obligations to UBS came due within two years of the fraudulent conveyances complained of herein, and as of this time, remain unsatisfied.

173. For example, in or around May 2008, Highland Capital caused CDO Fund to transfer out of CDO Fund approximately \$100 million that CDO Fund received after it monetized its long position in SunCom Wireless. CDO Fund did not use the proceeds from the SunCom Wireless sale to purchase valuable assets or pay debts to creditors in the ordinary course of business as debts came due. Rather, Highland Capital caused a substantial portion of

the proceeds to be distributed to CDO Fund's partners, including Highland Capital, its affiliates and principals, in exchange for no consideration or no fair consideration to CDO Fund, or consideration that had significantly less value than the \$100 million that was transferred. Highland Capital concealed the details concerning this fraudulent conveyance from UBS.

174. Highland Capital also caused CDO Fund to participate in the Fall 2008 Note Offerings. In particular, at a time when CDO Fund was insolvent or would soon become insolvent, Highland Capital caused CDO Fund to transfer substantially all of its unencumbered assets to Highland Financial in exchange for the September 2008 Notes. Highland Capital subsequently caused CDO Fund to transfer the September 2008 Notes to Citi in exchange for no fair consideration to CDO Fund. This constituted a voidable preference under the applicable law as CDO Fund was insolvent (or contemplating insolvency) at the time and owed UBS in excess of \$200 million. Finally, in March 2009, after UBS brought the Highland Entity Action against CDO Fund, the assets that Highland Capital caused CDO Fund to transfer to Highland Financial were transferred again, this time to the Affiliated Transferees and Citi as part of the March 2009 Fraudulent Conveyance.

175. The asset transfers that Highland Capital caused to be made from Highland Financial were made with actual intent to hinder, delay and defraud UBS as a creditor of Highland Financial's alter ego, SOHC. In particular, Highland Capital's and Highland Financial's actual intent to hinder, delay and defraud UBS is evidenced by, among other things, the fact that (a) the transfers were made to insider affiliates, including to Highland Capital, (b) Highland Capital retained control over the assets transferred, (c) before the transfer, SOHC had been sued and threatened with suit, (d) the transfer involved substantially all of Highland Financial's assets, (e) Highland Financial was insolvent at the time of the transfer or became

insolvent shortly afterwards, and/or (f) the transfer occurred at or around the time SOHC's contingent obligation to UBS became enforceable.

176. The asset transfers that Highland Capital caused to be made from Highland Financial also were made without Highland Financial receiving reasonably equivalent value in exchange for the transfer. At the time of the transfers, Highland Financial's remaining assets were unreasonably small in relation to its business. At the time of the transfers, Highland Capital and Highland Financial's board of directors knew or reasonably should have believed that Highland Financial would not be able to pay its debts, including the debts of its alter egos, when they came due.

177. For example, in the Fall of 2008, Highland Capital caused Highland Financial to become indebted to the Affiliated Transferees by entering the Fall 2008 Note Offerings. In connection with the Fall 2008 Note Offerings, Highland Financial improperly conveyed a security interest in the equity of two of its affiliates to the Affiliated Transferees to UBS's detriment. Highland Financial did not receive reasonably equivalent value in exchange for granting that security interest to the Affiliated Transferees. Moreover, when Highland Financial issued the Fall 2008 Notes, Highland Capital and Highland Financial knew or should have known that Highland Financial was incurring a debt beyond Highland Financial's ability to pay when it came due, especially given Highland Financial's existing debts to UBS at the time.

178. In March 2009, after the Highland Entity Action was commenced by UBS, Highland Capital caused SOHC's alter ego, Highland Financial to engage in the March 2009 Fraudulent Conveyance, whereby Highland Financial fraudulently transferred assets to the Affiliated Transferees, as well as Highland Capital and a CDO Fund creditor (other than UBS). At the time of the March 2009 Fraudulent Conveyance, Highland Capital and the Highland Entities knew that SOHC and its alter ego, Highland Financial, were insolvent. Highland Capital

and the Highland Entities also knew that SOHC and its alter ego, Highland Financial, owed UBS approximately \$350 million. Nevertheless, they caused almost all of Highland Financial's remaining valuable assets to be transferred to Highland Capital and its affiliates, thereby preventing UBS from being able to recover against Highland Financial or SOHC.

179. As a result of the foregoing fraudulent conveyances, the Fund Counterparties were unable to satisfy their obligations to UBS. As a result of the foregoing fraudulent conveyances, UBS has been harmed in an amount to be determined at trial.

FIFTH CAUSE OF ACTION
(Tortious Interference With Contractual Relations)
(Pled Solely To Preserve For Appeal)

180. UBS repeats and realleges the allegations set forth in paragraphs 1 through 179 of this Complaint as if fully set forth herein.

181. The Agreements are valid and binding contracts.

182. The parties agreed that UBS would not bear the risk of any losses in connection with the Restructured Transaction. As a direct result of the Fund Counterparties' breach of the Warehouse Agreements, UBS suffered no less than \$686,853,290.26 in damages. Under the terms of the Warehouse Agreements, the Fund Counterparties' obligation to pay UBS for losses in the Warehouse Facility expressly survived the termination of the Agreements.

183. Highland Capital knew of the Agreements, and were familiar with their terms, including the Fund Counterparties' obligations to UBS thereunder. The Affiliated Transferee Defendants, also knew of the Agreements, and their terms, including the Fund Counterparties' obligations to UBS thereunder.

184. Highland Capital and the Affiliated Transferee Defendants intentionally and improperly caused and ensured a breach of the Warehouse Agreements by the Fund Counterparties, thereby tortiously interfering with UBS's rights under the Agreements.

185. Specifically, in 2008 and 2009 Highland Capital wrongfully caused the improper and fraudulent asset transfers, payments, distributions and dividends described above, and thereby tortiously interfered with UBS's contractual relationship with the Fund Counterparties by knowingly impairing UBS's contractual right under the Warehouse Agreements to be reimbursed by the Fund Counterparties for the losses on the Warehouse Assets. For example, Highland Capital wrongfully caused the March 2009 Fraudulent Conveyance for which there was no legitimate purpose. The Affiliated Transferee Defendants knowingly participated in Highland Capital's tortious interference with UBS's rights under the Agreements.

186. Highland Capital and the Affiliated Transferee Defendants conceived of, advocated for, implemented, authorized, approved and engaged in the foregoing improper conduct and unlawful asset transfers, including the Fall 2008 Note Offerings and the March 2009 Fraudulent Conveyances, which constitute independent torts.

187. Highland Capital and the Affiliated Transferee Defendants engaged in the foregoing unlawful and improper conduct, and tortiously interfered with UBS's contractual rights under the Warehouse Agreements, for their own improper personal gain by knowingly violating UBS's rights and making it impossible for the Fund Counterparties to perform under the Warehouse Agreements. In particular, the foregoing conduct constitutes independent torts and predatory acts directed at UBS for Highland Capital's and the Affiliated Transferee Defendants' own personal gain.

188. As a direct and proximate result of Highland Capital's and the Affiliated Transferee Defendants' tortious interference with UBS's contractual rights under the Agreements, UBS has suffered damages in an amount to be determined at trial. Had Highland Capital and the Affiliated Transferee Defendants not tortiously interfered with UBS's contractual rights, the Fund Counterparties would have been able to make payments to UBS of the amount they owed to UBS under the Warehouse Agreements.

189. Paragraphs 189 to 197 have been intentionally left blank.

RELIEF DEMANDED

WHEREFORE, plaintiffs UBSS and UBS AG demand judgment:

(a) On the first cause of action, declaring that UBS was induced to enter the Agreements as a result of fraud committed by Highland Capital, and awarding damages to UBS for all losses and liabilities incurred by UBS, and that UBS incurs, with respect to the Agreements and the Warehouse Facility, including, without limitation, interest, reasonable attorneys' and accountants' fees and expenses and any other losses, fees and expenses that UBS incurred or incurs, in an amount to be determined at trial but in any event, no less than \$686,853,290.26;

(b) On the second cause of action, which is pled solely to preserve UBS's appellate rights, declaring that UBS was induced to enter the Agreements as a result of fraud committed by Highland Capital, and awarding damages to UBS for all losses and liabilities incurred by UBS, and that UBS incurs, with respect to the Agreements and the Warehouse Facility, including, without limitation, interest, reasonable attorneys' and accountants' fees and expenses and any other losses, fees and expenses that UBS incurred or incurs, in an amount to be determined at trial but in any event, no less than \$686,853,290.26;

(c) On the third cause of action, declaring that Highland Capital breached the duty of good faith and fair dealing implied in the Agreements, and awarding UBS an amount to be determined at trial;

(d) On the fourth cause of action, (i) declaring that the dispositions of the Fund Counterparties' and Highland Financial's assets, as directed by Highland Capital, constituted fraudulent conveyances; (ii) appointing a receiver over Highland Capital; (iii) directing that a full accounting be had of Highland Capital's affairs and finances; (iv) imposing a constructive trust over Highland Capital's assets until such an accounting is completed; and/or (v) awarding UBS damages in an amount to be determined at trial, but no less than the value of the assets fraudulently and improperly transferred, or, alternatively, directing that Highland Capital and its partners, members or shareholders return to the Fund Counterparties any assets or consideration received from Highland Financial or the Fund Counterparties, directly or indirectly, as distributions, dividends, consideration, compensation, fees, interest, principal or otherwise, between March 14, 2008 and the present.

(e) On the fifth cause of action, which is pled solely to preserve UBS's appellate rights, declaring that Highland Capital is liable for tortiously interfering with UBS's contractual rights under the Warehouse Agreements, and awarding UBS an amount to be determined at trial;

(f) Awarding UBS punitive damages in an amount to be determined at trial;

(g) Granting UBS its costs and disbursements, including reasonable attorneys' fees and expenses of this action;

(h) Granting UBS pre-judgment interest; and

(i) Granting such other and further relief as the Court deems just and proper.

New York, New York
June 28, 2010

CADWALADER, WICKERSHAM & TAFT LLP

By: /s/ Gregory A. Markel
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Howard R. Hawkins, Jr.
Jason Jurgens
Ellen M. Halstead

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*Attorneys for Plaintiffs UBS Securities LLC
and UBS AG, London Branch*

EXHIBIT 14

FILED: NEW YORK COUNTY CLERK 11/04/2010 9:50097/2009
9-34054-sq11 Doc 933-14 Filed 08/07/20 Entered 08/07/20 23:11:52 Page
NYSCEF DOC. NO. 213 RECEIVED NYSCEF 11/04/2010
SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: BERNARD J. FRIED
HON. BERNARD J. FRIED Justice

E-FILE PART 60

UBS Securities LLC and USB AG, London Branch,

INDEX NO. 650097-2009

Plaintiff(s),

MOTION DATE _____

- v -

MOTION SEQ. NO. 008

Highland Capital Management, L.P., et al.,

MOTION CAL. NO. _____

Defendant(s).

The following papers, numbered 1 to _____ were read on this motion to/for _____

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

Cross-Motion: Yes No

Upon the papers submitted, it is

ORDERED that the motion is granted and the above-captioned action is consolidated in this Court with *UBS Securities LLC vs. Highland Capital Management, L.P.*, Index No. 650752/2010, under Index No. 650097-2009, and the consolidated action shall bear the following caption:

UBS Securities LLC and USB AG, London Branch,

Plaintiffs,

-against-

Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., and Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland Credit Strategies Fund, Highland Crusader Offshore Partners, L.P., Highland Credit

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

9-34054-sgj11 Doc 933-14 Filed 08/07/20 Entered 08/07/20 23:11:52 Page
Opportunities CDO, L.P., and Strand Advisors, Inc.,

Defendants,

and it is further

ORDERED that the pleadings in the actions hereby consolidated shall stand as the pleadings in the consolidated action; and it is further

ORDERED that movant is directed to serve a copy of this order with notice of entry on the County Clerk, who shall consolidate the papers in the actions hereby consolidated and shall mark his records to reflect the consolidation; and it is further

ORDERED that movant is directed to serve a copy of this order with notice of entry on the Clerk of the Trial Support Office (Room 158), who is hereby directed to mark the court's records to reflect the consolidation.

Dated: 11/1/2020

ENTER:

B. J. Fried
J.S.C.

HON. BERNARD J. FRIED

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION
Check if appropriate: DO NOT POST REFERENCE

EXHIBIT 15

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: MARCY S. FRIEDMAN **PART 60**
Justice

UBS SECURITIES LLC, INDEX NO. 650097/2009
 -against- MOTION DATE _____
HIGHLAND CAPITAL MANAGEMENT, L.P., et al., MOTION SEQ. NO. 026, 027

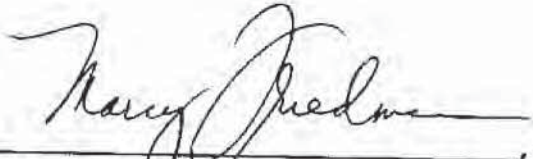
The following papers, numbered 1 to _____ were read on this motion for summary judgment.
 Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ... No (s). _____
 Answering Affidavits — Exhibits _____ No (s). _____
 Replying Affidavits _____ No (s). _____

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

It is hereby ORDERED that these motions for summary judgment are decided in accordance with the attached decision and order of today's date.

Dated: 3-13-17


 _____ J.S.C.
MARCY S. FRIEDMAN, J.S.C.

1. Check one: CASE DISPOSED NON-FINAL DISPOSITION
 2. Check as appropriate:.....Motion is: GRANTED DENIED GRANTED IN PART OTHER
 3. Check if appropriate:..... SETTLE ORDER SUBMIT ORDER
 DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 60

-----X
UBS SECURITIES LLC and UBS AG, LONDON BRANCH,

Plaintiffs,

Index No. 650097/09

-against-

HIGHLAND CAPITAL MANAGEMENT, L.P., HIGHLAND
SPECIAL OPPORTUNITIES HOLDING COMPANY,
HIGHLAND CDO OPPORTUNITY MASTER FUND, L.P.,
HIGHLAND FINANCIAL PARTNERS, L.P., HIGHLAND
CREDIT STRATEGIES MASTER FUND, L.P., HIGHLAND
CRUSADER OFFSHORE PARTNERS, L.P., HIGHLAND
CREDIT OPPORTUNITIES CDO, L.P., and STRAND
ADVISORS, INC.,

Defendants.

-----X
FRIEDMAN, J:

This action arises out of a failed restructured transaction for securitization of collateralized loan obligations (CLOs) and credit default swaps (CDSs). Plaintiffs UBS Securities LLC (UBSS) and UBS AG, London Branch (UBS AG) (together, UBS) seek damages of \$686 million in investment losses from the following affiliated defendants: Highland Capital Management, L.P. (Highland Capital); Highland Financial Partners, L.P. (Highland Financial); Highland Special Opportunities Holding Company (SOHC); Highland CDO Opportunity Master Fund, L.P. (CDO Fund); Highland Credit Strategies Master Fund, L.P. (Credit Strategies), Highland Crusader Offshore Partners, L.P. (Crusader Fund), Highland Credit Opportunities CDO, L.P. (Credit Opp Fund); and Strand Advisors, Inc. (Strand).¹

The second amended complaint (complaint) asserts causes of action for fraud against the Fund Counterparties (first and second causes of action), breach of contract against the Fund

¹ SOHC and CDO Fund are referred to as the Fund Counterparties. Credit Strategies, Crusader Fund, and Credit Opp Fund are referred to as the Affiliated Transferee defendants.

Counterparties (third and fourth causes of action), fraudulent conveyance against all defendants (fifth cause of action), tortious interference with contractual relations against the Affiliated Transferee defendants (sixth cause of action), declaratory judgment for general partner liability against Strand (seventh cause of action), and declaratory judgment for alter ego liability against Highland Financial (eighth cause of action).²

The instant action was consolidated with another action commenced by UBS only against Highland Capital. (UBS Secs. LLC v Highland Capital Mgt. L.P., Sup Ct, NY County, Nov. 1, 2010, Fried, J., index No. 650752/10.) The complaint in that action asserts causes of action against Highland Capital for fraud (first and second causes of action), breach of the covenant of good faith and fair dealing (third cause of action), fraudulent conveyance (fourth cause of action), and tortious interference with contractual relations (fifth cause of action).

Highland Capital, Highland Financial, Strand, and the Affiliated Transferee defendants move for summary judgment dismissing all causes of action against them. By separate motion, the Fund Counterparties seek summary judgment dismissing all causes of action against them.³

Factual Background

It is undisputed that the transaction at issue (Transaction), known as the Knox Warehouse, called for UBS to finance the purchase of CLOs and related CDSs and to hold them as “warehouse assets” for the benefit of Highland Capital, which was to sponsor the securitization. (Compl., ¶¶ 4, 35.) As pleaded in the complaint, Highland Capital was the

² The second and sixth causes of action are purportedly pleaded solely to preserve them for appeal.

³ After service of the motion, UBS settled its claims in this action against defendants Credit Strategies and Crusader Fund, two of the Affiliated Transferee defendants. (See Kirkland & Ellis Letter dated Jan. 7, 2016.)

investment manager of Highland Financial, and these two entities allegedly owned and/or controlled the Fund Counterparties and the Affiliated Transferee defendants. (Id., ¶¶ 22, 25.) Strand was Highland Capital’s general partner. (Id., ¶ 23.) Nonparty James Dondero was the president, founder, and owner of Highland Capital, and allegedly controlled all of the Highland entities through Highland Capital. (Id., ¶¶ 22, 25.)

The Cash and Synthetic Warehouse Agreements

The parties’ dispute arises out of the following three agreements, all of which are dated as of March 14, 2008: an Engagement Letter, entered into between UBSS and Highland Capital (Corcoran Aff., Ex. 13); a “Synthetic Warehouse Agreement,” entered into among UBS AG, the Fund Counterparties, and Highland Capital (Corcoran Aff., Ex. 14); and a “Cash Warehouse Agreement,” entered into among UBSS, the Fund Counterparties, and Highland Capital (Corcoran Aff., Ex. 15). In the Engagement Letter, UBSS agreed to act “as the financial arranger and placement agent in connection with a proposed collateralized debt obligations transaction with an anticipated aggregate issuance size of approximately U.S.\$818 million in securities . . . (the ‘Transaction’).” The Transaction contemplated the “formation and capitalization of a special purpose vehicle or vehicles (collectively, the ‘Issuer’) . . . that will acquire an investment portfolio” comprised of CLOs and CDSs that reference CLOs, to be managed by Highland Capital as “Servicer.” (Id., § 1, 3 [a].) In the Engagement Letter, UBSS and Highland Capital “agree[d] that the CDO Fund and SOHC will in aggregate bear 100% of the risk of the Warehouse Facility in accordance with their respective Allocation Percentages (as defined in the Warehouse Documents) and otherwise in accordance with the terms of the Warehouse Documents” (Id., § 3 [c].)

Section 5 (B) of the Synthetic Warehouse Agreement opens with the clause “On the Closing Date:” and provides, among other things, for compensation to UBS by the Fund Counterparties for CDS Losses. Subsection 5 (B) (2) provides that “[a]n amount equal to the excess, if any,” of CDS Losses over CDS Gains

“shall collectively be paid by each of the CDO Fund and SOHC after notice from UBS of the amount due, by wire transfer in immediately available funds (i) on the Termination Date in the case of a Termination Date occurring on (a) March 14, 2009, (b) March 14, 2010 or (c) the Closing Date or (ii) three Business Days after the Termination Date in the case of any other Termination Date. Such CDS Loss shall be allocated among the CDO Fund and SOHC on the basis of their respective Allocation Percentages.”

Section 5 (B) (2) defines CDS Losses as follows:

“(x) the sum of (1) the aggregate Floating Amount payments and Physical Settlement Amount payments made by UBS with respect to all of the Credit Default Swaps as to which a Floating Amount Event or a Credit Event occurred under the terms thereof, *plus* (2) the aggregate amount of Net Hedging Payments made by UBS with respect to all Hedging Transactions related to the Credit Default Swaps, *plus* (3) the aggregate Replacement Losses determined with respect to all of the Credit Default Swaps and the related Hedging Transactions that were terminated or novated or as to which the exposure was retained by UBS, in each case upon the designation of the Reference Obligation relating to such Credit Default Swap as an Ineligible Security (such amount in this clause (x), the ‘CDS Losses’)”

(emphasis in original.) Ineligible Security is defined as: “any Reference Obligation in the CDS Portfolio which has become ineligible for sale to the Issuer on the Closing Date as a result of the failure of such Reference Obligation to conform to the Eligibility Criteria as it exists at such time of determination. . . .” (Synthetic Warehouse Agreement, Ex. A-2.) This definition further states: “Each of the following is an ‘Ineligible Security’: a Defaulted Security, a Designated Security and a Written Down Security.” (Id.) Closing Date is defined as “the date

of the closing of the Transaction and the issuance of the CDO Securities.” (Id., Ex. A-1.)

Section 5 of the Synthetic Warehouse Agreement further provides: “To the extent the Closing Date fails to occur, allocation of CDS Losses, CDS Gains and any other amounts payable hereunder will be determined in accordance with the provisions of Section 6 hereof.”

Section 6 (C), in turn, provides:

“To the extent there are any CDS Losses, the CDO Fund and SOHC shall collectively be responsible for 100% of any such CDS Losses. Such CDS Losses shall be allocated between the CDO Fund and SOHC on the basis of their respective Allocation Percentages. Each of the CDO Fund and SOHC shall, after notice of the amount due from UBS, remit such amounts by wire transfer in immediately available funds to UBS within three Business Days after the Termination Date.”

The Cash Warehouse Agreement, section 5 (A), provides that, in the event that “the Closing Date fails to occur on or prior to the Termination Date, . . . UBS shall be authorized (but not required) to sell each Collateral Obligation then in the Warehouse Account in accordance with the Liquidation Procedures.” This section further provides: “Following the completion of such liquidation of the Collateral Obligations, any Aggregate Collateral Loss shall be allocated to the CDO Fund and to SOHC on the basis of their respective Allocation Percentages” and shall be paid to UBS.

UBS Margin Calls and Termination of Agreements

Section 12 (C) of the Synthetic Warehouse Agreement required the Fund Counterparties to transfer an additional deposit of \$10 million in cash or eligible securities into a “Deposit Account” in the event that the “Deposit Threshold Exposure Amount is greater than or equal to U.S. \$100,000,000.” On September 16, 2008, UBS made a “margin call” under section 12 (C) of the Synthetic Warehouse Agreement, demanding additional collateral of \$10 million from

each of the Fund Counterparties. (Compl., ¶ 77.) The Fund Counterparties satisfied this margin call on September 19, 2008. (*Id.*, ¶ 79.) On October 21, 2008 UBS made a second margin call under section 12 (C) of the Synthetic Warehouse agreement, which the Fund Counterparties satisfied on October 24 by posting assets with a notional value of \$49.97 million. (*Id.*, ¶¶ 90, 91.) On November 7, 2008, UBS made a third margin call. Highland Capital and the Fund Counterparties allegedly offered to post various securities to satisfy this margin call. (*Id.*, ¶ 94-95.) On November 13, UBS rejected the securities and requested cash or cash equivalent collateral. (*Id.*, ¶ 96.)

On December 3, 2008, UBS terminated the parties' agreements based on the Fund Counterparties' failure to post the requested collateral. (*Id.*, ¶¶ 99-100.) Shortly thereafter, UBS demanded payment for its losses under the Cash and Synthetic Warehouse Agreements. (*Id.*, ¶¶ 103, 105.) On January 5, 2009, UBS notified Highland Capital and the Fund Counterparties of the failure to pay UBS's losses, and commenced unwinding the warehouse facility. (*Id.*, ¶ 106.) On January 16, 2009, UBS conducted an auction of the warehoused assets, as contemplated under the parties' agreements, and on March 19, 2009, UBS notified Highland Capital and the Fund Counterparties of UBS's final accounting, and asserted that these entities owed UBS \$686,853,290.26. (*Id.*, ¶¶ 106-107.)⁴

⁴ The parties' claims and the procedural history of this action and two related actions are further discussed in several previous decisions of the Appellate Division and of this court, familiarity with which is presumed. (See *UBS Secs. LLC v Highland Capital Mgt., L.P.*, 93 AD3d 489 [1st Dept 2012]; 86 AD3d 469 [1st Dept 2011]; 70 AD3d 526 [1st Dept 2010]; 42 Misc 3d 580 [Sup Ct, NY County 2013]; 30 Misc 3d 1230 [A], 2011 NY Slip Op 50297 [U] [Sup Ct, NY County 2011]; 25 Misc 3d 1243 [A], 2009 NY Slip Op 52565 [U] [Sup Ct, NY County 2009].) To the extent that additional facts are necessary to resolve the instant motions, they are discussed in the legal analysis that follows.

I. SOHC and CDO Fund's Summary Judgment Motion (mot seq 027)

The Fund Counterparties seek summary judgment dismissing all of the causes of action of the complaint, on four principal grounds: UBS cannot show that it suffered any damages. UBS committed prior material breaches of the parties' Agreements that excused the Fund Counterparties' performance. UBS did not justifiably rely on any misrepresentation that would support its fraud claim. UBS's claim against them as fraudulent transferors must be dismissed because New York does not recognize such a claim.

Limitation of Liability and UBS's Damages

The Fund Counterparties argue that UBS suffered no damages with respect to the Credit Default Swaps, which accounted for most of the warehoused assets. This argument is based upon defendants' interpretation of "CDS Losses," as defined in section 5 (B) (2) (x) of the Synthetic Warehouse Agreement. In particular, defendants argue that this definition "largely limited compensation [with respect to Credit Default Swaps] to realized losses"; that "an unrealized loss could become a 'CDS Loss' only 'upon the designation of the Reference Obligation relating to such Credit Default Swap as an Ineligible Security"; and that UBS's failure to designate any such Obligation as an Ineligible Security precludes it from recovering damages. (Fund Counterparties' Memo. In Supp. at 12-13.)

It is well settled that "agreements are construed in accord with the parties' intent," and a "written agreement that is complete, clear and unambiguous on its face must be enforced according to the plain meaning of its terms." (Greenfield v Philles Records, 98 NY2d 562, 569 [2002].) The court's "aim is a practical interpretation of the expressions of the parties to the end that there be a 'realization of [their] reasonable expectations.'" (Brown Bros. Elec. Contrs.,

Inc. v Beam Constr. Corp., 41 NY2d 397, 400 [1977] [internal citation omitted]; Matter of Lipper Holdings, LLC v Trident Holdings, LLC, 1 AD3d 170, 171 [1st Dept 2003] [a “contract should not be interpreted to produce a result that is absurd, commercially unreasonable or contrary to the reasonable expectations of the parties” [internal citations omitted].) “A contract is unambiguous if the language it uses has ‘a definite and precise meaning, unattended by danger of misconception in the purport of the [agreement] itself, and concerning which there is no reasonable basis for a difference of opinion.’” (Greenfield, 98 NY2d at 569 [internal citation omitted].) It is further settled that “[e]xtrinsic evidence of the parties’ intent may be considered only if the agreement is ambiguous, which is an issue of law for the courts to decide.” (Id.)

It is undisputed that the Warehouse Agreements were terminated prior to securitization and therefore prior to a Closing Date. As provided in section 5 of the Synthetic Warehouse Agreement (quoted supra at 5), section 6 governs the determination of CDS Losses in the event a closing fails to occur. Thus, the issue is whether any CDS Losses arose under section 6.

The definition of CDS Losses specifies three separate components of such Losses: (1) “aggregate Floating Amount payments and Physical Settlement Amount payments made by UBS”; (2) “aggregate amount of Net Hedging Payments made by UBS”; and (3) “aggregate Replacement Losses.” (Synthetic Warehouse Agreement, § 5 [B] [2] [x] [quoted in full, supra at 4.]) The requirement that a Reference Obligation be designated an Ineligible Security is set forth in the last clause of subdivision (3) of the definition of CDS Losses. Subdivision (3) concerns the Replacement Losses component of CDS Losses. The inclusion of the Ineligible Security designation requirement in subdivision (3) unambiguously requires compliance with that requirement in order to claim Replacement Losses, as a component of CDS Losses, under

section 5 of the Synthetic Warehouse Agreement.

As attested by Phillip Braner, Managing Director of Structured Products for Highland Capital and previous Chief Operating Officer of Highland Financial, “[t]he UBS-affiliated entities . . . did not designate any of the credit default swaps held in the synthetic warehouse as ineligible securities.” (Braner Aff., ¶¶ 1-2.) The Fund Counterparties contend that UBS is therefore barred from claiming Replacement Losses under section 6 of the Synthetic Warehouse Agreement. In support of this contention, they claim that CDS Losses are calculated in the same manner under both sections 5 and 6, because section 6 uses the defined term CDS Losses from section 5.

In arguing that UBS did not sustain any damages, however, the Fund Counterparties do not claim merely that UBS failed to designate Ineligible Securities pursuant to section 5 (B) (2) (x). Rather, they argue that the Synthetic Warehouse Agreement “expressly limited damages to realized losses” and that “[t]he designation of such securities as ‘Ineligible’ in order to recover unrealized market losses, is clearly required by the definition of ‘CDS Losses.’” (Fund Counterparties’ Memo. In Supp. at 4, 13.)⁵

The definition of CDS Losses does not by its terms distinguish between realized and unrealized losses and, indeed, does not use those terms. Although the Fund Counterparties

⁵ The Fund Counterparties at times state, without qualification, that under the Synthetic Warehouse Agreement, the Fund Counterparties “were responsible for realized losses, but not unrealized losses.” (Fund Counterparties’ Memo. In Supp. at 16; see also *id.* at 4, 6, 15.) At other times, they acknowledge that unrealized losses are recoverable against them under the Synthetic Warehouse Agreement, but only upon the designation of an Ineligible Security. (*Id.* at 13.)

The Fund Counterparties also argue that while the Synthetic Warehouse Agreement made them liable only for “actual, realized losses on documented CDS assets” (Fund Counterparties’ Memo. In Supp. at 6), they were liable for “market losses on cash assets” under the Cash Warehouse Agreement. (*Id.* at 6, 15.)

assert that the terms of the Synthetic Warehouse Agreement are unambiguous (Fund Counterparties' Reply Memo. at 3), they resort to parol evidence from their expert to support their claim that, under the Synthetic Warehouse Agreement, in order for unrealized losses to be included within the definition of CDS Losses, UBS must designate Ineligible Securities. (Corcoron Aff., Exs. 39, 39-A [Aff. of Adam Warren, ¶ 5; Warren Expert Report at 15].)

In response, UBS does not dispute that it did not designate Ineligible Securities. Rather, it argues that "securities can only be designated 'Ineligible' if and when the Knox Warehouse is securitized and sold to the market on a Closing Date." (UBS Memo. In Opp. at 8.) UBS asserts that where, as here, the Agreement was terminated prior to securitization, the Ineligible designation "could not have been required for UBS to recover losses because UBS could not have done so [i.e., could not have made the Ineligible designation] under the clear contractual terms." (Id. [emphasis in original].) According to UBS, "[t]his is why the contract expressly distinguishes the calculation of CDS Losses upon securitization and Closing (in which case Ineligible Securities must be designated as such and removed from the securitization pool) from the calculation of CDS Losses if the agreement is terminated before securitization (in which case securities cannot be designated Ineligible, and the Fund Counterparties are responsible for all Replacement Losses, including unrealized losses, on the CDS assets)." (Id. at 8-9.)

UBS's contention that securities could only have been designated Ineligible in the event of a closing appears to be highly questionable. As discussed above, Ineligible Security is defined to mean "any Reference Obligation in the CDS Portfolio which has become ineligible for sale to the Issuer on the Closing Date. . . ." (Synthetic Warehouse Agreement, Ex. A-2.) Other provisions of the Synthetic Warehouse Agreement address designation of Ineligible Securities

prior to Closing. Thus, section 5 (A) provides for the Servicer to “notify UBS promptly if at any time during the term of this Agreement it becomes aware that a Reference Obligation or the related Credit Default Swap does not conform to the Eligibility Criteria.” This section then sets forth procedures for UBS to designate Reference Obligations as Ineligible Securities. In the event UBS terminates the related CDSs or retains exposure, section (A) also sets forth procedures for UBS to calculate Replacement Loss and Replacement Gain “following the designation of such Reference Obligations as Ineligible Securities or otherwise pursuant to Section 6. . . .”

The court nevertheless concludes that the Fund Counterparties do not on this record demonstrate as a matter of law that, under these circumstances in which the Agreement was terminated without a closing having occurred, the Synthetic Warehouse Agreement unambiguously provides that the Fund Counterparties are responsible for unrealized losses only upon designation of the Reference Obligations relating to the CDSs as Ineligible Securities.

The parties submit sharply conflicting expert reports on the items to be included in calculating UBS’s damages, including the propriety of including unrealized losses in calculating CDS Losses. (See Corcoran Aff., Ex. 39 A [Report of Defs.’ Expert Adam Warren]; Corcoran Aff., Ex. 33 [Report of UBS’s Expert Louis Dudney].) To the extent that the determination of UBS’s damages will involve assessment of the credibility of the parties’ experts, the determination is not properly made on a motion for summary judgment. (See generally Bradley v Soundview Healthcenter, 4 AD3d 194, 194 [1st Dept 2004] [“Conflicting expert affidavits raise issues of fact and credibility that cannot be resolved on a motion for summary judgment”]; accord Manswell v Montefiore Med. Ctr., 144 AD3d 564 [1st Dept 2016].)

Significantly also, the Synthetic Warehouse Agreement contains separate provisions—sections 5 and 6, respectively—for calculation of CDS Losses at closing and in the event closing does not occur. Section 5 expressly provides: “To the extent the Closing Date fails to occur, allocation of CDS Losses, CDS Gains and any other amounts payable hereunder will be determined in accordance with the provisions of Section 6 hereof.” Section 6, however, employs the defined term for CDS Losses from section 5. On this record, it is unclear whether it is reasonably possible, consistent with settled precepts of contract interpretation, to read section 6 so that it is not rendered meaningless. (See generally Beal Sav. Bank v Sommer, 8 NY3d 318, 324-25 [2007].)⁶ Put another way, it is unclear what independent purpose section 6 serves if the calculation of CDS Losses is the same as that under section 5.

The parties must also address whether, in construing the Synthetic Warehouse Agreement, the court should read that Agreement together with the contemporaneous Engagement Letter and Cash Warehouse Agreement. (See Brax Capital Group, LLC v WinWin Gaming, Inc., 83 AD3d 591, 592 [1st Dept 2011] [contemporaneous documents governing the same transaction should generally be read together]; Gulf Ins. Co. v Transatlantic Reins. Co., 69 AD3d 71, 81 [1st Dept 2009] [same].) For example, the parties must address whether the differing terms of the Cash Warehouse Agreement regarding the Fund

⁶ As held in Beal, a court presented with a contractual interpretation issue should “construe the [contract] so as to give full meaning and effect to the material provisions. A reading of the contract should not render any portion meaningless. Further, a contract should be read as a whole, and every part will be interpreted with reference to the whole; and if possible it will be so interpreted as to give effect to its general purpose.” (8 NY3d at 325-325 [internal quotation marks and citations omitted].)

Counterparties' liability in the event of failure to close are relevant to, or instructive regarding, the interpretation of the definition of CDS Losses in the Synthetic Warehouse Agreement.

In sum, the court cannot find as a matter of law on this record that UBS is not entitled to recover unrealized losses. Determination as to whether the Synthetic Warehouse Agreement is ambiguous in this regard must await further clarification by the parties at trial.⁷

The court turns to the Fund Counterparties' further contentions that UBS received hedging gains of approximately \$128 million following the Fund Counterparties' alleged December 2008 breach, and that, if these gains are offset against any losses, UBS sustained no damages. (Fund Counterparties' Memo. In Supp. at 6-7, 19.)⁸ Determination of the effect of UBS's hedging on its damages claim can only be determined on a record that is fully factually

⁷ UBS relies on what it characterizes as defendants' "contemporaneous business records" showing that "the parties intended and expected that unrealized CDS losses would be included in Defendants' liability in the event of Termination." (UBS Memo. In Opp. at 9.) These documents include the following: "Cash Forecast" from September 2008, showing a "Transaction Amount" of "(50,000,000)" on March 20, 2009, which was noted to be "[b]ased on total unrealized losses of \$100mm" (Landis Aff., Ex. 27); SOHC's Income Statement, which noted a "[c]hange in unrealized losses of \$(53.9)m" (*id.*, Ex. 28 at 3.) In addition, UBS submits a document titled "Review Knox Transaction and contract ammendment [*sic*] (Interim Audit Procedures)," prepared by Highland Financial's accountant for the period ending March 31, 2008. (*id.*, Ex. 29.) This document contained a statement that "[u]nrealized gains/losses are included in the warehouse economics that are absorbed by SOHC and CDO Fund." (*Id.* at PWC-HCM00011538.) It further stated that, "[i]f the transaction does not take place (i.e. CDO securities are not issued), then CDO Fund and SOHC will share economics (both gain and loss) of the warehouse period based on a 51% (CDO Fund) and 49% (SOHC) split." (*Id.* at PWC-HCM00011539.)

The court declines to consider this evidence prior to determination of whether the Synthetic Warehouse Agreement is ambiguous as to the Fund Counterparties' liability for unrealized losses related to CDSs. (See generally *Greenfield*, 98 NY2d at 569.)

⁸ Although the Fund Counterparties contend that unrealized losses are not recoverable, they calculate realized losses of approximately \$20-21 million. (Fund Counterparties' Memo. In Supp. at 16.)

developed as to the types of hedging transactions as well as the relationship between the Fund Counterparties' alleged breaches, the losses on the warehouse assets, and the gains on the hedges. Moreover, as noted above, the parties submit sharply conflicting expert reports on the items to be included in calculating UBS's damages. These reports dispute not only the Fund Counterparties' liability for unrealized losses, but also the extent of required offsets, including offsets for UBS's hedging gains. (See Corcoran Aff., Ex. 39 A [Report of Defs.' Expert Adam Warren]; Corcoran Aff., Ex. 33 [Report of UBS's Expert Louis Dudney].) To the extent that expert testimony is required on the offset issue, its assessment will require credibility determinations that are not properly made on this motion.

The branch of the Fund Counterparties' motion for summary judgment, based on UBS's inability to prove damages, will accordingly be denied.

Prior Material Breaches by UBS

The Fund Counterparties argue that, prior to their alleged breach, UBS had already breached the parties' agreements by, among other things, miscalculating losses using "undocumented 'Dummy Swaps'" to inflate losses and "refusing to pay CDS Gains." (Fund Counterparties' Memo. In Supp. at 22.) The Fund Counterparties claim that UBS also recorded changes in exposure attributable to swaps involving Lehman Brothers, even after Lehman Brothers' bankruptcy filing caused the CDS agreements to terminate. (Id. at 22-23.) According to the Fund Counterparties, these improper calculations ultimately resulted in unfounded margin calls by UBS, and UBS's premature termination of the parties' agreements when the Fund Counterparties failed to satisfy the third margin call. (Id. at 23.) The Fund Counterparties claim that these breaches by UBS were material and excused the Fund

Counterparties' performance under the parties' agreements (id. at 19-20), thereby warranting dismissal of UBS's third and fourth causes of action for breach of the Cash and Synthetic Warehouse Agreements, respectively.

A material breach of a contract may excuse a non-breaching party's performance. (See Grace v Nappa, 46 NY2d 560, 567 [1979].) The court assumes, without deciding, that this doctrine is applicable under these circumstances in which defendants did not repudiate the contract—an issue the parties have not addressed. The court holds, however, that the Fund Counterparties fail to make a prima facie showing that UBS's conduct was impermissible under the Warehouse Agreements. As discussed above, the parties submit conflicting affidavits and evidence concerning the propriety of UBS's damages calculation, which resulted in the underlying margin calls. With each party "cast[ing] the other party in the role of the primary contract offender," issues of fact preclude summary judgment. (See Boston Concessions Group, Inc. v Criterion Ctr. Corp., 200 AD2d 543, 545 [1st Dept 1994]; W. E. Blume, Inc. v City of New York, 78 AD2d 608, 608 [1st Dept 1980].) Moreover, a factual issue exists as to whether any breach was material. (See generally Garofalo Elec. Co. Inc. v New York Univ., 300 AD2d 186, 189 [1st Dept 2002] ["The question of whether there has been substantial performance—or a breach—is to be determined, whenever there is any doubt, by the trier of fact"]; WILJEFF, LLC v United Realty Mgt. Corp., 82 AD3d 1616, 1617 [4th Dept 2011] ["Generally, the question whether a breach is material is for the finder of fact," unless "the evidence concerning the materiality is clear and substantially uncontradicted" (internal quotation marks and citation omitted)].) Accordingly, the branch of the Fund Counterparties' motion for summary judgment, based upon UBS's purported prior material breaches, will also be denied.

UBS's Reliance Upon Omissions or Misrepresentations

The Fund Counterparties also seek dismissal of UBS's first and second causes of action for fraud, on the ground that UBS cannot establish the justifiable reliance element of a fraud claim.

"The elements of a cause of action for fraud require a material misrepresentation of a fact, knowledge of its falsity, an intent to induce reliance, justifiable reliance by the plaintiff and damages." (Eurycleia Partners, LP v Seward & Kissel, LLP, 12 NY3d 553, 559 [2009]; Lama Holding Co. v Smith Barney, 88 NY2d 413, 421 [1996].) A fraud claim must be pleaded with particularity pursuant to CPLR 3016 (b).

In New York, sophisticated parties have an affirmative duty to protect themselves from misrepresentations made in arm's length business transactions by undertaking a reasonable investigation of the details of the transactions. (ACA Fin. Guar. Corp. v Goldman, Sachs & Co., 25 NY3d 1043, 1044 [2015] [ACA]; DDJ Mgt., LLC v Rhone Group L.L.C., 15 NY3d 147, 154 [2010] [DDJ].) "Moreover, 'when the party to whom a misrepresentation is made has hints of its falsity, a heightened degree of diligence is required of it. It cannot reasonably rely on such representations without making additional inquiry to determine their accuracy.'" (ACA, 25 NY3d at 1044-1045, quoting Centro Empresarial Cempresa S.A. v America Movil, S.A.B. de C.V., 17 NY3d 269, 279 [2011] [Centro].) Thus, where a plaintiff is aware that it has not been provided with financial information to which it is entitled, its duty to perform a "heightened degree of diligence" is triggered. (ACA, 25 NY3d at 1045 [internal quotation marks and citations omitted].) As the Court of Appeals has emphasized, "the question of what constitutes reasonable reliance is not generally a question to be resolved as a matter of law on a motion to

dismiss.” (ACA, 25 NY3d at 1045; DDJ, 15 NY3d at 155 [“The question of what constitutes reasonable reliance is always nettlesome because it is so fact-intensive” (internal quotation marks and citation omitted)].)

In support of their contention that UBS cannot prove justifiable reliance, the Fund Counterparties argue that UBS assessed their credit rating as “D3, the lowest available rating for a party not already in default, when it entered into the Restructured Transaction.” (Fund Counterparties’ Memo. In Supp. at 24, 3, citing, e.g., Corcoran Aff., Ex. 7 [Dep. of UBS’s David Bawden at 163, 256 [characterizing Fund Counterparties as “weak counterparties”].)

According to the Fund Counterparties, “UBS mandated a hedging strategy and the booking of a full reserve as conditions for internal approval, because it did not deem the Fund Counterparties as being capable of paying what UBS believed it would be owed upon execution of the contracts.” (Fund Counterparties’ Memo. In Supp. at 24, 3, citing, e.g., Corcoran Aff., Ex. 11 [Dep. of Michael Threadgold at 55] [conditioning approval on “appropriate hedging for counterparty risk”].) The Fund Counterparties conclude that, because UBS knew of their financial strength (or lack thereof), UBS could not have justifiably relied upon any misrepresentations or omissions regarding their creditworthiness or assets. (Fund Counterparties’ Memo. In Supp. at 24.)

In opposing the Fund Counterparties’ motion, UBS submits the affidavit of a former employee who was a member of the UBS team that worked on the Highland Capital engagement, stating that Highland Capital’s Philip Braner explained that Highland Capital “could (was willing to) exercise its control over the various Highland-affiliated funds to move assets between and among the affiliated funds, thereby making assets available to UBS from Highland-affiliated

funds other than the Fund Counterparties.” (Landis Aff., Ex. 58 [Aff. of Timothy LeRoux, ¶¶ 46, 47.]) UBS also relies on the testimony of various employees as to their reliance upon the Fund Counterparties’ misrepresentations concerning their finances and assets when deciding whether to enter into the Warehouse Agreements. (See e.g. Landis Aff., Ex. 58 [Aff. of Timothy LeRoux, ¶¶ 5-6, 12-20, 30-48] [attesting, among other things, to alleged misrepresentations as to the Fund Counterparties’ ownership of assets posted as initial restructuring collateral]; *id.*, Ex. 59 [Dep. of Peter Chudy at 126-127]; *id.*, Ex. 60 [Dep. of David Bawden at 227-228]; *id.*, Ex. 61 [Dep. of Steve Marotta at 55-56] [depositions of UBS employees arguably supporting inference of reliance on financial information provided to UBS by defendants].)⁹ The reasonableness of that reliance is not subject to summary disposition, as it requires development of the factual record as to the information provided to UBS and assessment of the UBS employees’ review of the information.

The branch of the Fund Counterparties’ motion for summary judgment dismissing UBS’s fraud claims will accordingly be denied.

Fraudulent Conveyance & Fraudulent Transferor Claims

The Fund Counterparties argue that because UBS suffered no damages it is therefore not a creditor with standing to assert a fraudulent conveyance claim. (Fund Counterparties’ Memo. In Supp. at 25.) Given this court’s finding that factual issues exist concerning the extent of UBS’s damages, this basis for dismissal of the claim must fail.

⁹ This court advisedly uses the word “arguably.” Plaintiff and defendants support their factual claims on the instant motions with selected excerpts of deposition testimony, generally without describing the positions of the deponents and without the surrounding context. The meaning and import of the testimony therefore cannot be adequately evaluated on this record.

The Fund Counterparties further argue that New York does not recognize a cause of action for fraudulent conveyance against an alleged fraudulent transferor. (*Id.*) The Fund Counterparties' reliance on Federal Deposit Ins. Corp. v Porco (75 NY2d 840, 842 [1990]), in support of this argument, is misplaced. There, the Court held that the Debtor and Creditor Law "cannot fairly be read as creating a remedy against nontransferees who . . . are not alleged to have dominion or control over [the debtor's] assets or to have benefited in any way from the conveyance." In the instant action, in contrast, UBS does not allege that the Fund Counterparties assisted another debtor in transferring property but, rather, that "cash and assets" were transferred from Highland Financial, SOHC's alter ego, or from the Fund Counterparties themselves. (Complaint, ¶¶ 168, 18.) The Fund Counterparties do not cite any authority that a fraudulent conveyance claim is not maintainable under these circumstances.

II. Motion of Highland Capital, Highland Financial, Crusader Fund, Credit Strategies, Credit Opp Fund, and Strand for Summary Judgment (mot seq 026)

Highland Capital, Highland Financial, Strand, and the Affiliated Transferee defendants (together, moving defendants) seek summary judgment dismissing all of the causes of action asserted against them.¹⁰ UBS pleads claims, in the fifth cause of action of the complaint, against all moving defendants for fraudulent conveyance. In addition, UBS seeks to hold Highland Financial liable, under the eighth cause of action, as SOHC's alter ego, for SOHC's alleged fraudulent conveyances and breaches of the Warehouse Agreements.

UBS claims that, as a result of its first margin call in September 2008, the Highland entities began commingling assets to generate short-term liquidity for the Fund Counterparties.

¹⁰ As noted above, this motion was brought before UBS settled its claims against Credit Strategies and Crusader Fund.

(Id., ¶ 80.) The complaint alleges that, in the fall of 2008, Highland Capital caused Highland Financial to take on additional debt in exchange for cash-generating assets that were to be used by SOHC to satisfy obligations that SOHC had to nonparty Barclays Bank. (Compl., ¶ 82.) In September 2008, Highland Financial acquired \$321 million in “risky” CLO assets and life settlement insurance contracts from the Affiliated Transferee defendants in exchange for senior secured notes in a principal amount of \$316 million with a maturity date of 2018. (Id., ¶ 83.) This note offering (the September 2008 Note Offering) required Highland Financial to make amortized quarterly payments of \$15 million to the Affiliated Transferee defendants, starting in February 2009. (Id.) Highland Financial was also required to transfer a security interest to the Affiliated Transferee defendants in the shares of two wholly owned subsidiaries into which Highland Financial transferred the newly acquired assets. (Id.)

In October 2008, Highland Capital allegedly proposed, and Highland Financial undertook, an additional note offering on the same terms as the September 2008 Note Offering, with Highland Financial issuing an additional \$55,488,000 of secured notes, also due in 2018, to Crusader Fund. This note offering (the October 2008 Note Offering) brought Highland Financial’s debt obligation to the Affiliated Transferee defendants to approximately \$371 million. (Id., ¶ 85.) UBS claims that the granting of these security interests and related asset transfers constituted fraudulent conveyances, and made it impossible for the Fund Counterparties and Highland Financial to satisfy their obligations to UBS. (Id., ¶¶ 84, 85.)

UBS maintains that, at the time of the September and October 2008 Note Offerings (together, Fall 2008 Note Offerings), Highland Financial, as SOHC’s alter ego, owed UBS hundreds of millions of dollars that it could not pay. (Id., ¶ 84.) Highland Capital allegedly

caused “Highland Financial and SOHC to use the assets that they acquired to pay down a substantial portion of SOHC’s debt to Barclays [Bank] to the detriment of UBS.” (Id., ¶ 86.)

These payments to Barclays Bank were made at a time when SOHC and Highland Financial were allegedly insolvent or within the zone of insolvency, and constituted fraudulent conveyances. (Id., ¶ 88.) UBS also claims that CDO Fund used the notes it received to satisfy obligations to Citibank, NA at a time when CDO Fund was insolvent, thereby also making a fraudulent conveyance. (Id., ¶ 89.)

UBS further claims that in December 2008, after UBS terminated the restructured Transaction, Highland Capital ensured that Highland Financial and SOHC were insolvent by transferring assets to the Affiliated Transferee defendants, and then sought to hide these conveyances by tying them to the cancellation of the notes issued in the Fall 2008 Note Offerings. (Id., ¶¶ 108-109.)

UBS commenced the instant action on February 24, 2009. According to the complaint, on March 17, 2009, Highland Capital caused SOHC’s parent and alleged alter ego, Highland Financial, to transfer all of its and SOHC’s assets to Highland Capital and the Affiliated Transferee defendants. These assets were allegedly valued at \$239 million and included assets of two of Highland Financial’s subsidiaries that had no obligations to the Affiliated Transferee defendants. (Id., ¶ 111.) As a result of the transfer, these funds were unavailable to SOHC to satisfy the debt owed to UBS under the parties’ agreements. (Id., ¶ 113.) UBS refers to this transfer as the “March 2009 Fraudulent Conveyance.” (Id., ¶ 111.)

Moving defendants sharply dispute that the transfer of assets in March 2009 was a fraudulent conveyance. In an affidavit submitted by moving defendants, Phillip Braner states

that toward the end of 2008, the assets that secured the notes issued in fall 2008 were subject to significant credit downgrades. According to Mr. Braner, these downgrades had a negative impact on the cash flows available to Highland Financial as dividends, and the decreased cash flows made it unlikely that Highland Financial would be able to meet its debt service obligations under the notes, or its obligation to pay premiums on the life settlement contracts it had acquired. (Braner Aff., ¶ 13.) As a result, Highland Financial assertedly approved the unwinding of the notes to relieve it of these obligations (*id.*), and “transferred the collateral securing the Secured Notes back to the Funds.” (Moving Defs.’ Memo. In Supp. at 5.) Mr. Braner claims that the decision to unwind the notes was not related to debts owed by SOHC. (Braner Aff., ¶ 13.)

The Fall 2008 notes were terminated and the collateral was transferred pursuant to a “Termination, Settlement and Release Agreement,” dated March 20, 2009, between Highland Financial, HFP Asset Funding II, Ltd., and HFP Asset Funding III, Ltd., as Issuers, and various Noteholders, including Credit Strategies, Crusader Fund, a successor to the note purchased by Credit Opp Fund, and Highland Capital. (Landis Aff., Ex. 65.) Moving defendants refer to the March 2009 transaction as the March 2009 Note Termination. (Moving Defs.’ Memo. In Supp. at 5.)

Moving defendants argue that UBS’s inability to establish damages precludes any claims against them. They further argue that UBS cannot establish Highland Financial’s alter ego liability and that, in any event, the March 2009 Note Termination was not a fraudulent conveyance. Finally, they contend that UBS’s claim against Highland Capital for breach of the covenant of good faith and fair dealing is without merit.

Lack of Damages

In support of their claim that UBS cannot establish damages, moving defendants rely on the Fund Counterparties' damages argument. As the Fund Counterparties' motion for summary judgment based on lack of damages has been denied, moving defendants' argument likewise fails.

Alter Ego Liability

Moving defendants argue that because claims arising before the commencement of this action on February 24, 2009 are barred by res judicata, the only remaining claim against them is based on the March 2009 Note Termination—a transaction that involved SOHC's shareholder, Highland Financial, not SOHC itself. Moving defendants further argue that because UBS cannot establish that Highland Financial is SOHC's alter ego, the fraudulent conveyance claim involving this Note Termination must be dismissed. (Moving Defs.' Memo. In Supp. at 11-12, 16.)

The standards for liability under an alter ego or veil piercing theory are well settled:

“ . . . [P]iercing the corporate veil requires a showing that: (1) the owners exercised complete domination of the corporation in respect to the transaction attacked; and (2) that such domination was used to commit a fraud or wrong against the plaintiff which resulted in plaintiff's injury.

While complete domination of the corporation is the key to piercing the corporate veil, especially when the owners use the corporation as a mere device to further their personal rather than the corporate business, such domination, standing alone, is not enough; some showing of a wrongful or unjust act toward plaintiff is required. The party seeking to pierce the corporate veil must establish that the owners, through their domination, abused the privilege of doing business in the corporate form to perpetrate a wrong or injustice against that party such that a court in equity will intervene.”

(Matter of Morris v New York State Dept. of Taxation & Fin., 82 NY2d 135, 141-142 [1993])

[internal citations omitted].)

As a threshold matter, the court notes that the Appellate Division determined that UBS's substantially similar allegations in an earlier complaint in this action were sufficient to plead a claim for alter ego liability. (UBS Secs. LLC, 93 AD3d at 490.) This court previously held that UBS's alter ego claim in the second amended complaint in this action is based on substantially similar allegations to those upheld by the Appellate Division. These allegations include not only general allegations as to Highland Capital's commingling of the Highland entities' funds and disregard of corporate formalities, but also Highland Capital's pre-February 2009 conduct, in connection with the Fall 2008 Note Offerings, in causing Highland Financial to acquire Credit Strategies' and Crusader's assets, which were later the subject of the alleged March 2009 fraudulent conveyance. (UBS Secs. LLC, 42 Misc 3d at 587-588.)

Moving defendants contend that UBS's alter ego claim is barred by res judicata based on the Appellate Division's decision in this and a subsequent related action, holding that UBS's claims against Highland Capital were barred by res judicata to the extent they "implicate events alleged to have taken place before the filing of the original complaint" (i.e., the filing on February 24, 2009 of the complaint in the instant action). (UBS Secs. LLC, 86 AD 3d at 474; see Moving Defs.' Memo. In Supp. at 9-10.) Moving defendants also rely on a subsequent decision of the Appellate Division which dismissed claims for fraudulent conveyance "arising before February 2009" against Highland Financial and other Highland entities, on the ground that these entities were in privity with Highland Capital. (UBS Secs. LLC, 93 AD3d at 490.)

Citing these decisions, moving defendants assert that the March 2009 Note Termination is the only alleged wrongdoing on which the fraudulent conveyance claim can be based.

(Moving Defs.’ Memo. In Supp. at 11.) They also assert that UBS cannot establish that Highland Financial is SOHC’s alter ego because “the only allegations UBS makes regarding the relationship between HFP and SOHC concern events alleged to have occurred before February 24, 2009.” (*Id.* at 12, 12 n 55 [citing UBS’s allegations as to pre-February 2009 encumbrances and commingling of Highland entities’ assets].)

This court previously rejected the contention, advanced by moving defendants here, that UBS cannot rely on events or conduct occurring before February 2009 to support its alter ego and fraudulent conveyance claims. As held in the prior decision, the Appellate Division decisions preclude any fraudulent conveyance claims arising before February 24, 2009. They therefore preclude UBS from recovering for any alleged fraudulent conveyances made before that date. However, proof of pre-February 24, 2009 transfers, and of other conduct involving the operation of the Highland entities, is not prohibited to the extent necessary to prove UBS’s claims for post-February 24, 2009 fraudulent conveyances, which are maintainable under the Appellate Division decisions on an alter ego theory. (*UBS Secs. LLC*, 42 Misc 3d at 587.) The court adheres to this decision here.¹¹

In upholding UBS’s alter ego claim, the court also rejects moving defendants’ contention that “UBS was not harmed by any alleged fraud of SOHC caused by HFP’s purported domination, because . . . UBS did not rely on any alleged misrepresentations by SOHC.” (Moving Defs.’ Memo. In Supp. at 16.) This contention rests, in turn, on moving defendants’ claim that UBS “assumed the risk of doing business with the Fund Counterparties,” and

¹¹ It is noted that moving defendants’ briefing on these motions was largely completed before issuance of the decision.

“bargained for SOHC as a counterparty with its eyes wide open as to SOHC’s lack of creditworthiness.” (Id. at 17-18.) Moving defendants fails to establish this claim as a matter of law, for the reasons discussed above in connection with the Fund Counterparties’ motion. (See supra at 16-18.)

Favour Mind Ltd. v Pacific Shores, Inc., (2004 WL 97649, 2004 US Dist LEXIS 637 [SD NY 2004]), on which moving defendants rely, is not to the contrary. There, the Court applied the doctrine that “[w]here a party is aware of the risks of dealing with a corporation, that party has assumed the risk of such dealings.” (2004 WL 97649, at * 7.) The Court rejected the plaintiff’s alter ego claim, based on the findings that the plaintiff knew, when it decided to do business with the defendant, of the defendant’s poor credit ranking, its losses, and its limited initial capital investment; that the plaintiff continued to do business with the defendant after issues arose regarding payment of bills; and that there was no evidence that the plaintiff “ever had any reasonable expectation that [the party sought to be held] would be personally liable for payment.” (Id.) Here, in contrast, as discussed above (supra at 16-18), factual issues exist as to the extent to which UBS assigned value to the Fund Counterparties and concluded that they had the ability to meet obligations upon a default, and as to the reasonableness of UBS’s reliance on information provided to it by the Highland entities in connection with the Transaction.

Moreover, a factual issue exists on this record as to whether SOHC, through Highland Financial as alter ego, perpetrated a wrong against UBS. UBS submits evidence that Highland Financial and SOHC engaged in various transfers, shifting funds from SOHC to other Highland entities. (See e.g. Landis Aff., Ex. 26 [Dep. of Highland Financial’s Todd Travers at 182, acknowledging that Highland Financial and SOHC were treated interchangeably for purposes of

borrowing money or repaying debts]; Landis Aff., Ex. 87 at PWC-HCM00017088 [accounting report for Highland Financial, stating that “sales activity in SOHC is driven by cash needs at [the Highland Financial] level for the closing of new CDOs”]; Landis Aff., Ex. 88 [Dep. of Gene McQwown at 446-447, stating that, at the time of the September 2008 Notes Offering, Highland Financial was undercapitalized and that it would not have been possible to issue these notes on the same terms with unaffiliated entities].) As discussed above (supra at 17-18), Highland Capital’s Braner also allegedly made representations to UBS regarding Highland Capital’s willingness to make assets available from various Highland entities to satisfy the Fund Counterparties’ obligations. Evaluation of this testimonial evidence involves credibility determinations, which are not properly made on a motion for summary judgment.

Moving defendants next argue that “over the life of the Restructured Transaction . . . , [Highland Financial] contributed more to SOHC than it received from SOHC,” and therefore that “[t]he net balance of these transactions was to UBS’ benefit, not detriment.” (Moving Defs.’ Memo. In Supp. at 18; Aff. of Clifford Stoops [Highland Capital’s Chief Accounting Officer and Highland Financial’s Interim Chief Financial Officer], ¶ 5.) However, as set forth in UBS’s expert report, UBS disputes moving defendants’ methodology for reviewing transfers, claiming that defendants improperly considered the transfers at an “aggregate, net level rather than analyzing individual transfers at the transactional level and separately evaluating whether fair consideration was exchanged.” (Landis Aff., Ex. 36 [Report of Louis Dudley at 23-24].) The parties also dispute whether cash transfers and loan repayments by SOHC to Highland Capital and Highland Financial in fact exceeded Highland Financial’s contributions to SOHC. (See UBS’s Memo. In Opp. at 17.)

Moving defendants thus fail to demonstrate as a matter of law that Highland Financial is not the alter ego of SOHC.

Fraudulent Conveyance

Moving defendants seek dismissal of UBS's constructive fraudulent conveyance claim on the ground that the March 2009 Note Termination was made for "fair consideration" under section 273 of the Debtor and Creditor Law, and was therefore not a fraudulent conveyance. (Moving Defs.' Memo. In Supp. at 19.) Specifically, they argue that the underlying notes were "secured debt" (*id.* at 20-23), and that the March 2009 Note Termination "repaid antecedent secured debt to non-insiders," and therefore constituted fair consideration under New York law. (*Id.* at 23.) They also argue that, even if certain Affiliated Transferee defendants were "insiders," the payments to these noteholders were for fair consideration because the payments "satisfied secured debt." (*Id.* at 24.)

Moving defendants fail to demonstrate entitlement to judgment as a matter of law with respect to UBS's allegations of constructive fraud. Debtor and Creditor Law (DCL) sections 273, 273-a, 274, and 275, which govern constructive fraud, all require a showing that fair consideration was lacking.

Under section 272 of the DCL:

- "Fair consideration is given for property, or obligation,
 - a. When in exchange for such property, or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or an antecedent debt is satisfied, or
 - b. When such property, or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared with the value of the property, or obligation obtained."

As the Court of Appeals has explained, “[i]t is well settled that an evaluation of whether fair consideration is given for property under Debtor and Creditor Law § 272 must be determined upon the facts and circumstances of each particular case.” (Commodity Futures Trading Commn. v Walsh, 17 NY3d 162, 175 [2011] [internal quotation marks and citation omitted].) “Good faith is required of both the transferor and the transferee, and it is lacking when there is a failure to deal honestly, fairly, and openly. Transfers to a controlling shareholder, officer or director of an insolvent corporation are deemed to be lacking in good faith and are presumptively fraudulent.” (Matter of CIT Group/Commercial Servs., Inc. v 160-09 Jamaica Ave. Ltd. Partnership, 25 AD3d 301, 303 [1st Dept 2006] [internal quotation marks and citations omitted].)

Here, the parties dispute whether the transfers were made to “insiders,” and, therefore, whether the “presumptively fraudulent” standard was triggered. (Moving Defs.’ Memo. In Supp. at 23-24; UBS’s Memo. In Opp. at 19-20.) According to Mr. Braner, CDO Fund and Crusader Fund held 9.71% and 9.07% limited partner interests in Highland Financial, respectively, at the time of the Fall 2008 Note Offerings. (Braner Aff., ¶ 5.) Mr. Braner also admitted that Highland Capital held a 20.96% limited partner interest in Highland Financial, and Highland Capital’s president, James Dondero (Dondero), held a 0.15% limited partner interest in Highland Financial. (Id., ¶ 8; Landis Aff., Ex. 103 [chart showing ownership interests in Highland entities].) UBS submits deposition testimony and an ownership chart prepared by defendants, showing that Mr. Dondero also owned approximately 70% of Highland Capital. (Landis Aff., Ex. 78 [Dondero Dep. at 15-16]; id., Ex. 136 [Dep. of Mark Okada at 9-10]; id., Ex. 137 [chart entitled “Highland Equity Ownership”].) Moreover, UBS submits an “Amended and Restated Management Agreement,” and several “Investment Management Agreements,”

executed by the Highland defendants, by which Highland Capital was designated “Manager” of Highland Financial, SOHC, CDO Fund, Crusader Fund, Credit Strategies, and Credit Opp Fund, with discretion and authority to manage the assets and operations of these entities. (Landis Aff., Exs. 81, 105-108.)

In addition, Mr. Dondero signed the original “Note Purchase Agreement,” dated September 26, 2008, on behalf of Highland Capital, CDO Fund, the Affiliated Transferee defendants and Highland Capital as their sole member, Strand, and HFP Asset Funding II and III, Ltd. (Stoops Aff., Ex. 42.) UBS also relies on the “Termination, Settlement and Release Agreement,” discussed above, which effectuated the March 20, 2009 Note Termination by extinguishing the parties’ obligations under the fall 2008 notes and transferring the assets back to the noteholders. The Agreement was signed by Mr. Dondero on behalf of Highland Financial, Highland Capital, HFP Asset Funding II and III, Ltd., CDO Fund, Credit Strategies, Crusader Fund, “Highland Credit Opportunities CDO, Ltd.,” and Strand, among other entities.¹² (Id., Ex. 44; Landis Aff., Ex. 26 [Dep. of Todd Travers at 228-229, stating that Mr. Dondero negotiated on behalf of all parties to the Note Purchase Agreement with respect to the retirement of the notes].)

On this record, moving defendants fail to demonstrate as a matter of law that the termination of the fall 2008 notes repaid debt to “non-insiders.” At a minimum, whether Mr. Dondero, through Highland Capital, managed and controlled Highland Financial, the Fund Counterparties, and the Affiliated Transferee defendants, thereby placing himself, Highland

¹² If Highland Credit Opportunities CDO, Ltd. is in fact the same entity as Highland Credit Opportunities CDO, L.P., Mr. Dondero would have signed on behalf of all Affiliated Transferee defendants.

Capital, and Highland Financial on “both sides” of the Fall 2008 Note Offerings and the March 2009 Note Termination, raises a factual issue as to whether the transaction “was effected in good faith.” (See Farm Stores, Inc. v School Feeding Corp., 102 AD2d 249, 254 [2d Dept 1984], affd in part 64 NY2d 1065 [1985] [rejecting argument that shareholder was an “outside lender” with no control, where “he exercised his influence as a shareholder in decisions which directly affected his investments,” and it was “undisputed that [he] gave his consent to all distributions of funds collected . . . , including those distributions challenged as fraudulent”]; PalmOne, Inc. v R.C.S. Computer Experience, L.L.C., 15 Misc 3d 1127 [A], 2007 NY Slip Op 50873 [U], *7 [Sup Ct, NY County 2007] [finding that factual issue existed concerning transferee’s good faith, where “transferee [was] controlled by a person who is also an insider of, and/or has control over, the transferor”].)

Moving defendants rely upon Matter of Dreier LLP v Westford Asset Mgt. LLC (462 BR 474 [Bankr SD NY 2011]) in support of their argument that “transfers to a group of affiliated funds, their agents, and managers for the repayment of principal investment could not be a fraudulent conveyance because they were not insiders.” (Moving Defs.’ Memo. In Supp. at 23.) However, Dreier LLP involved investments by a third-party group of affiliated hedge funds in a Ponzi scheme by the principal of Dreier LLP. (462 BR at 479.) Here, in contrast, the transfers were made by an affiliated transferor to affiliated transferees, and therefore raise issues, which are not resolved on this record, as to the “good faith” of the transferees. (See id. at 488.)

Moving defendants further argue that, even if the noteholders were insiders, the transfers were for fair consideration because they repaid secured debt. (Moving Defs.’ Memo. In Supp. at 24.) In support of this argument, moving defendants rely upon Matter of Northstar Dev.

Corp. v Buchheit (465 BR 6 [Bankr WD NY 2012]), in which the Court applied the New York Debtor and Creditor Law. The Court held that this law “allows the avoidance of preferential transfers to directors, officers and shareholders of insolvent corporations.” (Id. at 13, quoting Farm Stores, Inc. v School Feeding Corp., 102 AD2d at 254.) The Court further explained: “As a general rule, however, no preference occurs upon the payment of a secured debt. For a preference to arise, a creditor must realize some improvement in position.” (Id. at 13-14.)

In Matter of Northstar Dev. Corp., the Court held that payment to discharge mortgages held by an insider of the debtor satisfied the good faith element of fair consideration, for purposes of a constructive fraud claim under the Debtor and Creditor Law. (Id. at 14-15.) In the instant action, the parties dispute whether the March 2009 Note Termination involved secured debt. Even assuming that a security interest was created, the Highland entities initiated the disputed transaction only five to six months before terminating it. In Matter of Northstar Dev. Corp., in contrast, the secured debt was created many years before the disputed transaction by which it was discharged.

Although the fraudulent conveyance claim here arose upon the March 2009 Note Termination, the Fall 2008 Note Offerings are integrally related. Assessment of the fraudulent conveyance claim will therefore require factual development of the record as to the circumstances under which the Fall 2008 Note Offerings were made. Even in the face of a claim by a transferee that it was a secured creditor, a court considering a constructive fraud claim must evaluate whether the transfer was made for fair consideration—that is, for a fair equivalent and in good faith. (See e.g. Farm Stores, 102 AD2d at 251-252 [finding transfers fraudulent even though transferees contended “that they were secured investing or lending shareholder-

creditors”]; Northpark Assoc., L.P. v S.H.C. Mergers, Inc., 8 AD3d 642, 643-644 [2d Dept 2004] [finding question of fact as to whether transfer by the defendant judgment debtor to defendant’s parent company and sole shareholder was made in good faith, although parent company contended that it was a secured creditor and that the transfer was made in payment of an antecedent debt].) On this record, moving defendants do not demonstrate as a matter of law that the good faith element of a constructive fraud claim cannot be satisfied.

Finally, moving defendants argue that UBS cannot establish a fraudulent conveyance claim based on actual fraud. (Moving Defs.’ Reply Memo. at 6-9.) Even assuming that the court may entertain this argument, which was made for the first time on the reply (but see Ritt v Lenox Hill Hosp., 182 AD2d 560, 562 [1st Dept 1982]), moving defendants fail to demonstrate as a matter of law that UBS cannot establish that Highland Financial acted with actual intent to defraud in effectuating the March 2009 Note Termination. The assertion of Highland Capital’s Braner that the Termination was made for legitimate business reasons (see Braner Aff., ¶ 13) must be evaluated on a fully developed record.

The branch of moving defendants’ motion for summary judgment dismissing UBS’s fraudulent conveyance claims will accordingly be denied.

Good Faith and Fair Dealing

Highland Capital seeks summary judgment dismissing UBS’s claim for breach of the covenant of good faith and fair dealing (third cause of action), asserted in the action under Index Number 650752/10. This claim is based upon allegations that Highland Capital used its control over the Fund Counterparties to orchestrate the transfer of Highland Financial’s assets to Highland Capital and the Affiliated Transferee defendants, as part of the March 2009 Note

Termination. (Complaint under Index Number 650752/10, ¶¶ 158-166; UBS’s Memo. In Opp. at 7-8, 25.)

Highland Capital argues that it cannot be liable for this conduct unless Highland Financial is the alter ego of SOHC. As moving defendants’ motion for summary judgment dismissing UBS’s alter ego claim has been denied, this basis for dismissal of the implied covenant claim fails.

Highland Capital also argues that UBS terminated the parties’ agreements months before the acts that allegedly breached the covenant of good faith and fair dealing, thereby ending Highland Capital’s obligations. The court agrees. The implied covenant of good faith and fair dealing “embraces a pledge that ‘neither party shall do anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract,’” and it “encompass[es] ‘any promises which a reasonable person in the position of the promisee would be justified in understanding were included.’” (511 W. 232nd Owners Corp. v Jennifer Realty Co., 98 NY2d 144, 153 [2002] [internal citations omitted].)

Here, UBS concedes that it terminated the parties’ agreements in December 2008 (Compl., ¶ 99), and its cause of action is based upon the March 2009 Note Termination several months later. UBS cannot state a claim for breach of the implied obligation of good faith absent an existing contract. (See e.g. Levine v Yokell, 258 AD2d 296, 296-297 [1st Dept 1999]; American-European Art Assocs., Inc. v Trend Galleries, Inc., 227 AD2d 170, 171 [1st Dept 1996] Lakeville Pace Mech., Inc. v Elmar Realty Corp., 276 AD2d 673, 676 [2d Dept 2000]; Beninati v Federal Deposit Ins. Corp., 55 F Supp 2d 141, 149 [ED NY 1999] [implied duty of good faith and fair dealing does not “extend beyond the termination of the contract”].)

Highland Capital's motion for summary judgment dismissing UBS's third cause of action for breach of the covenant of good faith and fair dealing, in the pleading under Index Number 650752/10, will therefore be granted.

It is accordingly hereby

ORDERED that the motion for summary judgment of defendants Highland Capital Management, L.P., Highland Financial Partners, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc. (motion sequence number 026) is granted to the extent that the third cause of action in the complaint under Index Number 650752/10 is dismissed, and the motion is otherwise denied; and it is further

ORDERED that the motion for summary judgment of defendants Highland Special Opportunities Holding Company and Highland CDO Opportunity Master Fund, L.P. (motion sequence number 027) is denied.

This constitutes the decision and order of the court.

Dated: New York, New York
March 13, 2017

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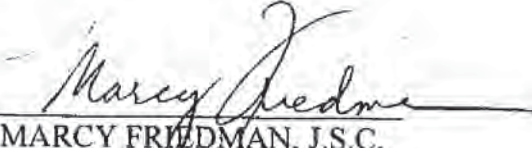

MARCY FRIEDMAN, J.S.C.

EXHIBIT 16

(pending ruling on motion to seal)

EXHIBIT 17

Richter, J.P., Webber, Kern, Moulton, JJ.

4834-

Index 650097/09

4835

UBS Securities LLC, et al.,
Plaintiffs-Respondents-Appellants,

-against-

Highland Capital Management, L.P., et al.,
Defendants-Appellants-Respondents,

Highland Security Opportunities
Holding Company, et al.,
Defendants-Appellants.

Lackey Hershman, L.L.P., New York (Kieran M. Corcoran of
counsel), for appellants and appellants-respondents.

Kirkland & Ellis LLP, New York (Andrew B. Clubok of counsel), for
respondents-appellants.

Order, Supreme Court, New York County (Marcy S. Friedman,
J.), entered on or about March 27, 2017, which granted the
motions for summary judgment of defendants Highland CDO
Opportunity Master Fund, L.P., Highland Special Opportunities
Holding Company, Highland Capital Management, L.P., Highland
Financial Partners, L.P., Highland Credit Opportunities CDO,
L.P., and Strand Advisors, Inc. to the extent of dismissing the
claim for breach of implied covenant against defendant Highland
Capital, and otherwise denied the motions, unanimously modified,
on the law, to dismiss the causes of action for fraudulent
conveyances, and otherwise affirmed, without costs.

In a prior order in this case, we found that,

"to the extent the claims against Highland in the new complaint implicate events alleged to have taken place before the filing of the original complaint, res judicata applies. That is because UBS's claims against Highland in the original action and in this action all arise out of the restructured warehousing transaction. While the claim against Highland in the original action was based on Highland's alleged obligation to indemnify UBS for actions taken by the affiliated funds, and the claims against Highland in the second action arose out of Highland's alleged manipulation of those funds, they form a single factual grouping. Both are related to the same business deal and to the diminution in the value of the securities placed with UBS as a result of that deal. Thus, the claims form a convenient trial unit" (86 AD3d 469, 474-475 [1st Dept 2011]).

While, in that order, we dismissed those portions of the causes of action for fraudulent conveyances that "rely on conduct" predating the commencement of this action on February 24, 2009, and further held that to the extent those causes of action "rely on conduct alleged to have occurred after" that date, "such claims should be allowed" (*id.* at 476), we now find that the alleged fraudulent conveyances that occurred in March 2009 not only "implicate events alleged to have taken place before the filing of the original complaint" (*id.* at 474), but are integrally intertwined with and rooted in conduct that predated

the commencement of this action such that the entirety of the fraudulent conveyance claims, as pled, which concern Highland's alleged manipulation of its affiliated funds for the purpose of frustrating UBS's potential recovery, are barred under the doctrine of res judicata. On the other hand, neither our prior decisions nor the doctrine of res judicata supports dismissal of the cause of action relating to alter ego liability because the allegations supporting alter ego liability are based on defendants' conduct prior to February 24, 2009.

The court correctly rejected defendants' arguments in support of dismissal of the remaining claims at issue. Issues of fact exist with respect to whether UBS suffered any recoverable contract damages, and as to whether it can establish justifiable reliance to support its claims that defendants committed fraud by misrepresenting their creditworthiness or the assets they owned prior to entering the transaction.

We take judicial notice of the decision of the trial court, dated September 19, 2017, which granted plaintiffs leave to reargue the dismissal of the claim for breach of implied covenant against defendant Highland Capital, and upon reargument, held that the claim should be reinstated. To the extent this decision has rendered moot plaintiffs' cross appeal of that part of the order on appeal, we exercise our broad discretionary authority to

reach beyond the scope of defendants' notices of appeal to review the merits of that order, as the same issues have been briefed on the cross appeal, and we find that the trial court properly reinstated this claim.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: OCTOBER 31, 2017


CLERK

EXHIBIT 18

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: TRIAL TERM PART 60

- - - - - X

UBS SECURITIES LLC and
UBS AG, LONDON BRANCH,

Plaintiffs,

- against -

INDEX NO.
650097/09

HIGHLAND CAPITAL MANAGEMENT, L.P.,
HIGHLAND CDO OPPORTUNITY MASTER
FUND, L.P., HIGHLAND SPECIAL
OPPORTUNITIES HOLDING COMPANY,
HIGHLAND FINANCIAL PARTNERS, L.P.,
HIGHLAND CREDIT STRATEGIES MASTER
FUND, L.P., HIGHLAND CRUSADER OFFSHORE
PARTNERS, L.P., HIGHLAND CREDIT
OPPORTUNITIES CDO, L.P., and
STRAND ADVISORS, INC.,

Defendants.

- - - - - X

60 Centre Street
New York, New York
May 1, 2018

TELEPHONE CONFERENCE

BEFORE:

HONORABLE MARCY S. FRIEDMAN,
Justice

APPEARANCES: (Via Telephone)

*** CONTINUED ON NEXT PAGE ***

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Appearances

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BY: GAYLE KLEIN, ESQ.
GARY CRUCIANI, ESQ.
MICHAEL FRITZ, ESQ.

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Official Court Reporter

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Proceedings

THE COURT: On the record.

Good afternoon, counsel. This is Judge Friedmann. May I have the appearances of every counsel who is on the line, please.

MR. CLUBOK: Good afternoon, Justice Friedman. This is Andrew Clubok for plaintiffs, and I'm on the line with Elizabeth Deeley, Susan Engel, Kuan Huang and Alysha Naik.

MS. KLEIN: Good afternoon, your Honor, this is Gayle Klein from McKool Smith for the defendants, and also joining me this afternoon is Gary Cruciani, C-R-U-C-I-A-N-I, and Michael Fritz, F-R-I-T-Z.

THE COURT: Thank you.

Will Mr. Clubok and Ms. Klein be the only two attorneys who will be speaking?

MR. CLUBOK: I think so for us, your Honor.

MS. KLEIN: I believe so, your Honor, unless you start talking about scheduling in which case we might need Mr. Cruciani to speak, as well.

THE COURT: That's fine. If anyone other than the two of you speaks, that person should say their name before they start speaking.

We have reviewed the parties' submissions on the bifurcation issue. I have quite a few questions.

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The first question is what are the parties' positions on whether the damages for breach of contract would be decided by the Court at the bench trial if we were to bifurcate as between a bench trial and a jury trial?

Let's start with UBS, please.

MR. CLUBOK: The Court would decide the damages for breach of contract.

THE COURT: Ms. Klein, do you disagree?

MS. KLEIN: We do not disagree with that, your Honor.

THE COURT: The next question is as follows:

Is it correct that it is plaintiffs' position that the implied covenant claim would be for the Court, but would be tried in the jury trial phase?

(Interrupted by a voicemail recording)

MR. CLUBOK: Your Honor, we had previously -- this is your voicemail, your Honor. Somehow there's a way to delete this message, if you'd just give me a second.

(Interrupted by a voicemail recording)

Originally, we called in and they put us into the Court's voicemail. So if there's a message, should be from us, but I think I deleted it. I'm not sure.

THE COURT: If there is a message from you in this -- we weren't able to transcribe it right now.

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So, all right --

MR. CLUBOK: You can just delete it. It was just trying to reach you a few minutes ago when they originally put us through to your voicemail. You can just delete it.

THE COURT: Ms. Klein, do you agree with that?

MS. KLEIN: Yes, your Honor.

THE COURT: So is it correct that it is plaintiffs' position that the implied covenant claim would be for the Court, but would be tried in the jury trial phase?

MR. CLUBOK: Yes, your Honor.

THE COURT: And is it also the plaintiffs' position that the implied covenant claim relates to the fraudulent conveyance claim and not to the fraudulent inducement?

MR. CLUBOK: Absolutely, yes.

THE COURT: Is it the defendants' position that the implied covenant claim implicates events leading up to the transaction and, therefore, relates to the fraudulent inducement claim?

I am referring to a statement that I read on page 2 of the defendants' brief, which seemed to indicate that that was the defendants' position.

MS. KLEIN: That is the defendants' position, your

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Honor.

THE COURT: Would you explain in detail the basis for claiming that the implied covenant claim relates to the fraudulent inducement claim? And then I will hear a response. I'd like you to address the evidence that would be heard on both the implied covenant and the fraudulent inducement claim.

That said, I don't expect you to address the evidence exhaustively, but I do expect you to give me some specific examples, and you will not be waiving any arguments that might be raised in the future by only highlighting certain evidence on this conference call. Have I allayed any anxiety?

MS. KLEIN: You have not, your Honor. Thank you for that.

In the implied covenant of good-faith and fair-dealing claim relates to a claim that the defendants somehow had promised with respect to the negotiation of the Agreements that they would, in fact -- some of the defendants would make sure that the Fund Counterparties were sufficiently flourished with assets such that they would pay for breach of contract damages, and that they would undertake no action that would render them unable to pay. And, that there is sufficient or substantial evidence relating to the due-diligence process in which UBS

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undertook a review of the Fund Counterparties' ability to pay and found it lacking.

Specifically, they found that the Fund Counterparties had no ability to pay and, therefore, they aired into the transaction fully aware that if there were a breach of contract, they would not be made whole -- "they" being UBS.

And, therefore, any suggestion under an implied covenant of good faith and fair dealing that the defendants somehow promised that the Fund Counterparties would have sufficient assets to pay a breach of contract claim is false, and that is the type of evidence that we would elicit in defense to the implied covenant claim, also in defense of the fraudulent inducement claim.

THE COURT: Ms. Klein, isn't the implied covenant claim as pleaded based solely on post entry into transaction alleged wrongful or fraudulent conveyances?

MS. KLEIN: The inability to pay for the breach of contract certainly is, in part, related to the fraudulent conveyance; but the promise or the alleged promise to make sure that there would be assets to pay and that there would not be actions undertaken that would diminish that comes from the contract negotiation and the understanding of the defendants at the time the contract was negotiated, as well as it implicates the assets that

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were offered in the margin calls during the contract performance, which the defendants were offered as security and which they refused.

THE COURT: Mr. Clubok, will you respond.

MR. CLUBOK: I will try, your Honor. I'm having a little hard time tracking this, just to be honest.

But, so I think what I'm hearing -- and I have not heard this or had this until we read their briefs and now I'm hearing this explanation like you are.

Our claim is that there's a contract and there is pretty unambiguous requirements that two parties make payments. There's disputes over how much they have to pay, and what the total amounts are going to be, and whether we count this transaction or not; and you're going have to decide those details, but there's a contract for at least some activity, two of the defendants --

THE COURT: Just one moment, please. The court reporter needs those names.

MR. CLUBOK: I'm sorry. There's two defendants, CDO Fund and SOHC, the so-called Fund Counterparties who are obligated and under a contract to make certain payments. There's disputes over how much they have to pay and what's the trigger for those payments, all of those things are part of the breach of contract back and forth.

But, if we win, if we prove our case against those

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two, they will have had to pay us money. And there's a third party, HCM, that also signed on to those contracts, but didn't have a direct obligation to pay; yet nevertheless, we say they had an implied covenant of good faith and fair dealing not to, for example, commit fraudulent conveyances that, that made it possible for the two parties who had owed us the money to pay.

First of all, there's no defense against that because before we signed the contract, internally our folks wondered whether, ultimately, the two parties were good credit risks. You wouldn't be able to defend against a breach of contract claim under these circumstances with that theory. So it is kind of manufactured anyway.

THE COURT: Can you slow down a little bit, please, so we can get a record. Thank you.

MR. CLUBOK: Sure, your Honor.

We're talking about the possibility of some parol evidence prior to contract formation about whether or not -- notwithstanding if your Honor finds there were payment terms and monies owed -- that somehow parol evidence from before the contract vitiate the actual obligation to pay because my client was worried that the two parties who promised to pay wouldn't be able to pay. I have a hard time believing your Honor is going to accept that kind of parol evidence if there's no basis for it.

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Until this bifurcation breach, I don't think we had ever in the nine years I've litigated the case ever heard that theory. I don't think it is legally valid. It is just kind of thrown out there.

But, even if there was such a legally valid theory and let's pretend for purposes of this argument that it's true, that my clients thought, Gee, if things go south, these two Fund Counterparties that have promised to pay will not be able to in fact pay the total amount, the total \$500 million of damages; does that mean then that they expected there to be fraudulent conveyances which is -- is basically, you know, the implied covenant of good-faith and fair-dealing claim that we now have is that they shouldn't have committed fraudulent conveyances to make it certain that these two parties couldn't have paid.

I mean, the defendants are just trying to interject a really far-afield defense that I doubt your Honor is going to even entertain and then expand it to a point that it just sort of is something I've never heard of in a contract dispute and, certainly, we never heard of in this case until two weeks ago when we saw this brief and now as I've heard it explained.

So that's -- to make that the bootstrap for now there's such substantial overlap that we have to bifurcate the trial, with all due respect the defendants, I think is

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a stretch.

The other thing I would say is even if you credit this, all I've heard is that there's overlap between fraudulent inducement and implied covenant of good faith and fair dealing, all of which we are proposing to put into the next phase. So even if your Honor is going to do that stuff, it is going to be in the next phase.

But I just think that this is not an argument that can be seriously used -- you know, we can have a motion practice on whether you're going to ever entertain that kind of parol evidence, or we could stipulate for the sake of argument that let's say were even true, that our clients -- the credit risk people that my clients worried that the two Fund Counterparties wouldn't be able to pay or assumed they wouldn't be able to pay and said, Gee, this is a risky contract that these two won't be able to pay, that doesn't -- because people internally are worrying about that, that doesn't strip the obligation to actually pay and it certainly doesn't give license to a signatory to the contract, Highland, to violate either express obligations or to implied duty of good faith and fair dealing by insuring that the two parties can't pay.

THE COURT: Mr. Clubok, when you refer to the possibility of parol evidence, you are talking about parol evidence that the defendants would possibly introduce

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regarding the lack of assets of the Fund Counterparties or regarding UBS's due diligence unit's knowledge of the lack of assets of the Fund Counterparties; is that correct?

MR. CLUBOK: Correct. On this particular species of parol evidence, it's something that plaintiffs would never put into the case. We don't think it is legally relevant. It's not something that the parties have ever talked about in this context as ever being potentially relevant to the breach and implied covenant good-faith and fair-dealing claim, and I just think it is just -- yes, in short, it is a theory that defendants say they're going to try to interject as a supposed defense to our implied covenant of good-faith and fair-dealing claim, which is really about how Highland Capital dealt with the aftermath of the breach of contract and whether they fraudulently transferred assets.

THE COURT: All right, but you are not intending on your implied covenant claim, am I correct, to put in any evidence that relates to the fraudulent inducement claim; is that right?

MR. CLUBOK: Absolutely not; you are correct.

THE COURT: Okay.

All right, now, let's --

MS. KLEIN: May I interject one --

THE COURT: Yes, of course. Go ahead.

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MS. KLEIN: First of all, we don't agree, obviously, that there is a fraudulent conveyance or any fraudulent inducement. But, more importantly, in order to survive an implied covenant claim, the plaintiffs are going to have to prove what the implied covenant is and that in fact exists, and the evidence that they're calling parol, which we don't think is parol, goes to vitiate the --

THE COURT: Just a moment. Just a moment. I know there's a lag. The reporter didn't get it. She lost you at "vitate," so can you repeat your last sentence, please, and the reporter is asking that it be a little slower.

MS. KLEIN: The evidence that we intend to introduce vitiates the fact of any implied covenant of good faith and fair dealing because the plaintiffs new and understood that the Fund Counterparties did not have the ability to pay and that the Highland Capital Management also disputed that in the event the Fund Counterparties could not pay, it was in any way liable.

THE COURT: I don't think I'm going to hear anything more on that at this time.

Now, let me go to my next question.

How can -- withdrawn.

Mr. Clubok, is it your position that it is for the Court to decide the implied covenant claim?

MR. CLUBOK: Yes. Yes, your Honor.

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THE COURT: Yes, just give me a minute, please.

Is that not an equitable claim? And if not, what happens if the Court and the jury reach different conclusions on whether action was taken to transfer assets that would have been used to satisfy a judgment, assuming for purposes of argument only that the Court would have previously concluded that there was to be a judgment?

MR. CLUBOK: Well, there's two different legal standards. So, the facts that relate to this are the same, the same body of facts. Mostly overlapping, I would say.

There are slightly different legal tests. One being for implied covenant of good faith and fair dealing is a legal standard that your Honor would have to apply to those facts; and there's a different standard, I think generally a higher standard -- you could argue is different standard. Let's just say different standard on fraudulent conveyance that largely you take the same set of facts and the jury apply the different, you know, jury instruction to the standard for them to decide whether it constitutes a fraudulent conveyance, then the court and the jury could decide they are both breach of implied covenant good faith and fair dealing and fraudulent conveyances; or, your Honor could decide it is breach of implied duty of good faith and fair dealing, but it doesn't rise to the level of fraudulent conveyance or vice versa.

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They're just two different legal tests, but substantially overlapping facts.

That's why we would propose moving that one -- now that the fraudulent conveyance is back in the case, that's why we would say that the trial that was currently set for June where we were going to have -- where we all agreed that agree your Honor would do the implied covenant good faith and fair dealing along with the breach of contract; we're now saying, Okay, that substantially overlaps. It is a very discrete set of facts so put that for the second phase of the case.

THE COURT: Ms. Klein.

MS. KLEIN: Your Honor, we agree that there are two different legal standards and, of course, the two different triers of fact can decide it differently. We do disagree that the parties emphatically agree that the case could be bifurcated if the fraudulent conveyance claim came back into the case; and, in fact, it was Mr. Clubok who represented to Ms. Barnett that if the 1st Department reversed course and added the claims back in and that the parties wanted to reconsider whether or not a bifurcation was appropriate, which is what has lead to this exercise.

MR. CLUBOK: If I may, just to be clear, I wasn't suggesting otherwise. What the parties agreed to on March 9th during the conference with the Court was that

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we were going to -- at that time fraudulent conveyance was out of the case because of the 1st Department's original decision; and the parties had agreed we would do the breach of contract and the breach of implied covenant of good faith and fair dealing; but we would bifurcate out the fraudulent inducement to a later time and alter ego to a later time. That's the status quo.

And then we did say, Gee, if the Court puts back in the fraudulent conveyance, we'll have to reassess and so now that the fraudulent conveyance is back in, we have a couple of options. One is to do everything all together, but for a number of reasons that makes less sense than just saying, Okay, fraudulent conveyance, it substantially overlaps and I didn't hear Ms. Klein disagree with that. It overlaps with the breach of implied covenant of good faith and fair dealing.

So the smart thing to do is to put that one to the later part of the case. No one had agreed to it before. We said we would reassess, and that's what we're doing and our proposal is we'll make this trial even easier and now we put off one issue that we thought we were going to be trying in June, but now we don't have to try in June because it substantially overlaps with this fraudulent conveyance and we will try the second phase under plaintiffs' proposal.

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THE COURT: Mr. Clubok, I really must ask you again to speak more slowly because this is proving very difficult for the reporter.

I think we got everything down there, but it's difficult to do it repeatedly at that rate.

Ms. Klein, do you have anything that you want to add in response to the last statement of Mr. Clubok?

MS. KLEIN: Yes, your Honor. Just briefly, and that is that as our submission demonstrates upon evaluation after the 1st Department's decision, we think there's substantial overlap not only of the evidence, but also of the witnesses that we would bring; and, therefore, we think that fairness dictates that this all be done at the same time.

THE COURT: All right, I was actually going to ask you to elaborate on that, on the overlap of witnesses.

The briefing on this, it is not expansive, shall we say. So can you elaborate on which witnesses would overlap and with respect to what issues?

MS. KLEIN: Certainly, your Honor.

There are several witnesses on both sides who had involvement in the deal and throughout the process.

On the defense side for the Highland Capital Management parties is Philip Braner and on the plaintiffs' side is Mr. LeRoux, L-E-R-O-U-X, and Mr. Grimaldi,

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G-R-I-M-A-L-D-I and Mr. Bawden, B-A-W-D-E-N.

Those three gentlemen participated in the negotiation and the meaning of the Agreements. They participated throughout the performance of the Agreements and some were also involved in the -- what we'll call post termination conduct.

So we anticipate that those three gentlemen have ultimately evidence relevant to all of the claims.

The complicating factor, of course, is that Mr. Braner is no longer an employee of a Highland entity. He is now working for a wholly separate company in Dallas; and Mr. LeRoux is no longer working for UBS and he's working for a wholly separate company in North Carolina. And, therefore, if we are not to do this all at the same time, even if Mr. Braner and Mr. LeRoux come to a first trial, it is unknown whether or not that they would participate in a second trial.

Therefore, given that they have knowledge of anything that happened before, during and after the performance of this Agreement, we think that there's substantial overlap.

The damages experts also have substantial overlap. On our side, it is a gentleman named Mr. Warren, and on the other side it is a gentleman named Mr. Dudley. So both of those experts would be called to testify in both phases of

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a trial.

And then, also, the Highland defendants allege that there's something called hedging. That is an offset to damages regardless whether it is breach of contract or fraudulent conveyance or otherwise. He testifies about hedging and about the risks and the process related thereto.

UBS claims that Mr. Mammola's testimony is not relevant to a breach-of-contract claim because the hedging occurred at the outset of the contract; not at the outset of the alleged breach.

But, the hedging did occur at the outset of the alleged fraudulent inducement; and, therefore, Mr. Mammola's testimony would be relevant to all of the claims or at least to a discussion in his testimony about whether or not he should be permitted to testify at trial on breach of contract, as the plaintiffs have alleged that he is not.

Mr. Mammola lives in London and, therefore, it is quite costly to bring him to testify to trial. So that is another witness who is overlapping on a different claim.

THE COURT: Is there a reason why I couldn't hear the hedging offset issue insofar as it bears on the contract claim at the time we had the jury trial?

MS. KLEIN: Well, we believe that the hedging

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offset, obviously, completely offsets any damages; and, therefore, if your Honor were to do that, that at the outset of the first stage of any trial, you would only decide whether or not there's liability and you would move all damages into a second phase of a trial.

THE COURT: Can you give me a bit more detail on what this overlap is in the testimony that the three UBS witnesses and the one Highland witness would be giving?

MS. KLEIN: Certainly. Mr. Braner, who is the Highland former employee, negotiated and restructured the transaction; and he has knowledge regarding the signed Counterparties' performance including, without limitation, the offering of certain assets for the margin calls, as well as the participation of the defendants in the Highland Financial Partnerships or HFP.

In those margin calls and the unwinding of a note transaction, which the defendants claim is the basis for their fraudulent conveyance claim. So Mr. Braner has knowledge and testimony that relates to all aspect of the claim.

Mr. LeRoux and Mr. Grimaldi also negotiated the restructured transaction and have knowledge of the emphasis, which Mr. Grimaldi and Mr. Bawden have knowledge of assessment of the risk and whether or not the parties would have the ability to pay. And Mr. LeRoux and Mr.

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Grimaldi also determined when to issue margin calls, and Mr. Grimaldi was involved in the decision to refuse certain assets that were offered by the margin call that relate to the note unwind that is alleged to be the basis for the fraudulent conveyance.

THE COURT: Is there any reason to believe that Mr. Braner will not appear at two phases of a bifurcated trial?

MS. KLEIN: Currently, your Honor, no. He has told us that he will participate; but, of course, he is actively involved with another job and his time is limited, and he is beyond the subpoena power of the Court. And the situation that we seriously want to guard against is Mr. Braner's participation in the first phase; but his refusal in the second phase because he doesn't have time or he's already been generous with his time or because his employer suggests that he should not be able to participate because he's not properly devoting his duties to his new employer, in that instance we would be dealing with a witness who doesn't want to be there and, of course, that is -- if we were to try to force him to come, that would substantially prejudice the defendants because we would have a witness who is uncooperative presenting our main case in front of a jury.

THE COURT: And where is Mr. Braner located?

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MS. KLEIN: He is located in Dallas, Texas.

THE COURT: All right, let's hear from Mr. Clubok on these overlap issues, please.

MR. CLUBOK: Sure. Mr. Braner was going to have this same issue when we agreed to bifurcate the first time.

Mr. Braner is involved in pretty much all aspects of the case from Highland. So when we agreed to bifurcate for the first time, Highland signed up for the fact that Mr. Braner would have to come twice.

Now, the hassle of the flying twice from Dallas, Texas to New York -- I've done it many times and I think Gayle probably has, too -- it is not the worst trip in the world. It's pretty minimal compared to what will happen now and there will be a certain, much easier to identify exactly when Mr. Braner will have to testify in the first phase and in a narrower band of when he testifies in the second.

Also, if our whole bifurcation plan is upset now because Mr. Braner no longer -- well, I just heard that he's willing to come for both so it is like he was willing to do it before. We still think he's willing, but, theoretically, possibly, Mr. Braner might change his mind later and that's why we shouldn't bifurcate now. That's, basically, the thrust of the defendants' argument and we disagree with that as being much of a fact for the Court

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should consider.

Having said that, worst case scenario and notwithstanding what Mr. Braner committed to before when we all told the Court we would bifurcate; but notwithstanding what Mr. Braner has recently reconfirmed what he's willing to do and notwithstanding the fact that we have video deposition testimony from him, so we're just happy to designate that testimony. It's easier not to come.

Another way to go about this is if he all of a sudden changes his mind or his employer won't let him make that trip from Dallas to New York for any day for the second phase of the trial, we could just do a trial deposition of him. If we really have to accommodate Mr. Braner and he's got to do it live from Dallas, we can make that work.

That would not be a reason to un-bifurcate or to un-bifurcate the whole trial. It is true that Mr. Braner overlaps. That's the one witness on their side of the fact witness that overlaps, but the evidence that has to come into play for the fraudulent conveyance and the alter ego and fraudulent inducement in the second trial is so -- most of it is totally different and separate and has nothing to do with the straight breach of contract.

There is a four-factor test for fraudulent conveyance. There is a nine-factor test for actual fraud.

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There is a seven-factor test for whether or not the transaction issue was actually an equity infusion, which undercuts their defense was a secured loan and there is a nine-factor test for alter ego. I just did quick math, and that is twenty-nine factors.

All those factors are factual issues with lots and lots of facts. If you recall the summary judgment, much of that PowerPoint that I think I was able to use covered facts because those twenty-nine factors that have nothing to do with the breach of contract that have lots of witnesses and lots of internal documents and lots of stuff of which Mr. Braner is a very small part of.

So all of that stuff should be in the second phase of the trial and just because Mr. Brian might, theoretically, change his mind is not a reason to not bifurcate.

With respect to everything else, you know, there are three UBS witnesses. Okay, that's on us. If our witnesses want to make two trips down to the courthouse, that we appreciate defendants' concern for those witnesses, but that's not a concern they need to worry themselves with.

THE COURT: Excuse me, I thought maybe -- let me clarify this.

Ms. Klein, were you saying that you are going to

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want to call any of those three UBS witnesses?

MS. KLEIN: Yes, your Honor.

THE COURT: All of them?

MS. KLEIN: We have not yet decided all of them.

Obviously, our presentation of evidence as defendants depends upon what the plaintiffs present in their case in chief; but, certainly, the current intent is to call all of them and that is what we would like to do.

If I may, just one point, and that is UBS is seeking hundreds of millions of dollars in recovery from my client. It is a jury trial, and we will be substantially and unfairly prejudiced if we cannot call our witnesses live in a jury phase of a trial. We all know that juries respond much better to live witnesses, and we would be at substantial and unfair disadvantage if we were to try to call any witnesses by deposition or by remote feed.

And, the difference here with respect to Mr. Braner is he has testimony that relates to the note unwind that is alleged to be part of the fraudulent conveyance claim, which wasn't in the bifurcated proposed trial previously and it is now in; and, therefore, Mr. Braner has essential testimony and it is essential to my client's ability to be able to defend themselves against these claims to have him appear live, and any chance that he will not do that that's caused by bifurcation is

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substantial and unfair harm to my clients.

MR. CLUBOK: Well, I have a solution --

THE COURT: Just a moment, please. Mr. Clubok, can you represent that you have the control to insure that not only Mr. Grimaldi and Mr. Bawden appear in both phases, but also that Mr. LeRoux appears in both phases if Highland wants to call them and you don't in the second phase?

MR. CLUBOK: When Grimaldi and Bawden, they live in New York, I can represent to you and they work for UBS, as long as they do which -- the defendants want this trial to be in October. There is some risk I suppose they could quit their jobs and move out of town before October, but that doesn't get solved by not bifurcating.

So in as much as good faith I can represent that things don't change between now and October, yes, they will show up for the October trial. But Mr. LeRoux, I can't guarantee that anymore that he'd show up in October or not.

I can tell you we are not going to call him even in the first phase. So whether he comes in October and he's currently had indicated that he will cooperate and try to make himself available, but that I can't guarantee outside of subpoena power.

He was deposed by defendants. They do have his video deposition testimony just like any witness who is

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unavailable. So whether we bifurcate or not doesn't increase my chances of getting Mr. LeRoux to show up in October. Either he will or he won't. And as defendants put in their papers, we had represented to them that our -- the indication to us in good faith just like their representation about Mr. Braner which we accept, are that he is willing to try to cooperate. So that's about the best I can say about Mr. LeRoux; but bifurcating or not doesn't affect that and I'm not planning to call him in our case in the first phase which, by the way, same thing with Mr. Braner. We're not asking to call Mr. Braner.

If Mr. Braner -- what defense are, basically, saying is, Oh, we can't guarantee that Braner will show up. We want to try this case in October when I guess we can guarantee he'll show up somehow, even though I just heard all the stuff about his employer maybe will change their mind. But, okay, they want to show up for the jury trial, make that the time they show up.

If he also doesn't want to come to New York in front of your Honor, I'm sure your Honor will not take offense if he does a videotaped trial deposition if he needs to do more testimony and he doesn't want to make the trip the New York. Your Honor will be able to distinguish that and will not hold it against him.

So, the fact that Mr. Braner may not want to make

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a second trip to New York is not a reason to upset, to totally change this case.

Furthermore, if I could just continue with the other argument that defendants had made. On this hedging issue, they say that their expert doesn't want to come here twice to talk about hedging, which he might theoretically have to do. Your Honor proposed a solution for that, which I think is perfectly fine. But, look, if we have a jury trial, he's going to have to come here twice. This was one of the points we made in our brief.

If we just have a jury trial in the fall, we are going to use a Frye motion because the hedging issue, that threshold question is a legal one, does its hedging even a possible offset for these damages or not? And does Mammola meet the standards articulated in Frye for providing expert testimony on this subject?

We say no. There will be a Frye hearing or presumably he will testify, so he still would have to testify twice. It is just now instead of having to do a Frye hearing -- by the way, all these people, a lot of these experts and your Honor will have to have a Frye hearing and a motion-in-limine hearing which we will avoid to a large extent if we just do those things in what is, essentially, the first phase of the case.

By the way, I heard vigorously, vigorously,

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vigorously the defendants say that they believe they will win the breach-of-contract claim; or because of the hedging arguments or the other offsets, they will prove there are no damages.

If that's the case, we'll never have a second phase. If there are no breach-of-contract damages, we will agree to take an appeal if necessary. If we believe there's no legal error, we'll just drop the case. We'll settle it.

We will not insist on a trial on fraudulent inducement if we lose all the breach-of-contract claim; and so if the defendants are right, then hedging can prove the offset, we'll just have this one-week long proceeding in June and the case will be over or it will be potentially subject to appeal if we have any appellate grounds on that score.

THE COURT: Let me stop you, please.

Ms. Klein, would you like to reply to any of that and, also, I would offer you a further and final opportunity to say anything you think is important to say in support of your claim that we should not bifurcate.

MS. KLEIN: Certainly, your Honor.

First of all, I just want to make sure that the record is clear we did not say that Mr. Mammola is not willing to come twice. I just mentioned that he lives in

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London and having have him come to New York twice potentially increases the cost and burden to the defendants in defending against these claims.

Same thing with having a bifurcated trial. We believe that given the overlap of evidence and witnesses, it substantially increases the amount of money my clients have to spend to defend against these claims, which we think are wholly defensible.

I also heard Mr. Clubok say that if the defense wins on breach of contract, we may not have a second phase; and he mentions specifically dropping the fraudulent inducement claim. He didn't talk about the fraudulent conveyance claim, the alter ego, the general partner liability claims.

We have a great concern that the case will not stop even if the defense does prove that there is no breach of contract or no damages.

THE COURT: I can't understand that position. What would there be to try if there was no breach in terms of alter ego or any damages issue?

MS. KLEIN: Well, I guess with respect to the fraudulent inducement claim, they could come back and say that they were fraudulently induced, and that --

THE COURT: But that's not what I just heard you say; and Mr. Clubok just represented that if there is a

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finding of no breach of contract, they will not proceed with the fraudulent inducement claim.

MS. KLEIN: And so I guess the concern then is, your Honor, what does defense victory mean? What is going up on appeal? What is -- what does it mean that there is no damages? What if the Court finds that there was, for example, \$44 million in damages? I was just pulling a number out of the air. Does that then mean that we have to move forward with the second phrase of trial?

It's just uncertain to us what he means by "if we win." If the win is no liability or zero damages, that doesn't vitiate the fact that there's a possibility that there would be a trial or a second phase if in fact it is not a -- it's a zero dollar verdict.

THE COURT: Yes, I understand and that is absolutely correct. That would not vitiate a second phase.

I don't mean to cut you off. Is there anything else that you want to bring to my attention?

MS. KLEIN: The only other thing that I bring to your attention, your Honor, is that if you do, in fact, determine that you would like to bifurcate the trial, we think that the trial should proceed in the fall instead of on June 4th for the reasons that were set forth in our submission.

THE COURT: Mr. Clubok, also, a final opportunity

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to you to bring to my attention anything you think important to bring to my attention. I'd ask you to please be brief.

MR. CLUBOK: I'll be very clear and I'll try to speak very slowly.

If there is no liability or if there are zero damages, we will not proceed to a second phase of trial on any of our claims, including fraudulent inducement, fraudulent conveyance or alter ego. We will preserve our right to take an appeal if we think it is appropriate.

If there is something like \$44 million in damages, I think there's a pretty good chance the parties can -- there's a pretty good chance the parties will resolve the case, knowing what I know about these parties and about just trials in general. So, anyway so that's the first thing I would say.

The second thing I would just say is that, again, I'd just like to end on the simple fact that the parties have agreed months ago -- when new counsel came along, we were wary that this would be used for a massive delay. I was assured by defense counsel that it was not their intention to do that; and I for my part said, you know what, we will be reasonable. We understand, you guys already have vacations, this trial coming up or that trial coming up.

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Let's find a reasonable time. My client would have liked to go to trial in March. We, ultimately, agreed to go forward in June on breach of contract and breach of implied covenant of good faith and fair dealing.

Now, we are saying let's go forward surely on breach of contract. It means no Frye hearing. It means no motions in limine. It means we don't have to have the initial proceeding the Court had once talked about where we talk about the contract or we talk about hedging in advance of a real trial.

It is a trial that we have been super specific about, exactly who we would call. We have exactly two witnesses in our case in chief: One company witness and one expert and then some deposition testimony we want to designate.

It's a case that we think could be tried in a week or less; and because it's easier than what had previously been agreed to which we agreed to in good faith to wait till June, we do not think it is appropriate now when the case is even simpler than we had agreed to to move everything to October. We think the case should go forward as scheduled. It will either end the case or it will frame the next phase of the case and, perhaps, it will lead to a resolution either way.

MR. CLUBOK: Thank you.

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THE COURT: Ms. Klein, was there anything new there that you feel a need to respond to?

MS. KLEIN: Yes, your Honor. Just very, very, briefly, which is we did come in as new counsel in February. This case has been going on for nine years. I've been practicing law for well over twenty, and it is literally the most complicated case I have ever been involved in.

For the last several weeks we have been involved in reviewing evidence and putting forth the submission to your Honor about why or why the case should be bifurcated or not and what the overlapping evidence is. And the 1st Department further on March 9th threw a monkey wrench into the whole case when it added back in the fraudulent conveyance claim.

Therefore, we're not seeking to move the trial to the fall for purposes of delay, but so that we be given an adequate opportunity to prepare for a designed scope of trial and put together our defense.

We have been focused on the briefing as of May 1st. We don't have clarity regarding the scope of the trial, and we are in fact seeking leave to appeal the 1st Department's recent reversal of the prior opinion and we put those papers in last Friday on the -- I'm sorry on the 20th.

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Therefore, we are moving forward as quickly and expeditiously as possible. We just think that a little more time given the pendency and the complication and history of this case would not unfairly prejudice UBS in the slightest, but to force us to a trial on June 4th would be prejudicial to my clients.

MR. CLUBOK: Your Honor, may I briefly respond to a couple new things I heard?

THE COURT: I think that I've heard what I need to hear today.

Let's just take a five-minute recess.

(Whereupon, at this time a short recess was taken.)

THE COURT: Let's go back on the record.

Back on the record.

Having read the parties' submissions and heard counsel for the parties on this conference call today, I am persuaded that the trial should be bifurcated and that that procedure will materially enhance the efficiency with which this matter is determined without causing prejudice to either party.

There are some complicated legal issues which need to be addressed on the breach-of-contract claim, including the computation of CDS losses as discussed in my summary judgment opinion and whether or not the contractual

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provisions regarding CDS losses are ambiguous and, therefore, expert testimony or evidence of custom and usage should be taken in interpreting those provisions.

In addition, there are complicated issues, among others, with respect to the hedging offset claims. Those issues will require further briefing, and determination of those issues if there were a jury trial could result in considerable delays to the jury and to the parties.

So, that is the principal reason I am going to bifurcate; but, in addition, I do not find that the inconvenience to witnesses is a basis for not bifurcating.

Counsel have had adequate opportunity to determine whether any of these witnesses would not cooperate with a second phase of trial and nothing is being put before the Court to indicate that there is not going to be cooperation of these witnesses; or that if there is not cooperation as it turns out, that the testimony cannot otherwise be obtained from the witnesses via videotaped depositions or otherwise and -- or rather videotaped trial testimony or otherwise.

And, in addition, I do not find that the fact that the defendants have chosen to retain new trial counsel on the eve of trial is a basis for deferring any longer the trial of this matter.

I appreciate that it has been difficult for new

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counsel to come in and prepare for this trial; but, if anything, new counsel's performance on this conference call today shows what an exceptional job counsel has done in a relatively short time in gaining mastery over the details of this complex case.

I am willing, however, to put the trial over for one month to early July to give counsel a further opportunity to prepare. I don't think that that delay would prejudice the plaintiff, and it would actually suit my schedule better than the June 4th trial date. Although, I could keep that date if it were absolutely necessary.

So, we have the defendants' list of trial conflicts. It does not appear that starting on July 2nd would cause a problem. There are some witnesses that are unavailable on certain days, but it doesn't look like the bench part of the trial will be so lengthy that we couldn't work around that.

Does the plaintiff have a problem with a July 2nd start date?

MR. CLUBOK: I think that should be fine, your Honor, with the caveat that with a little flexibility to carry into the next week as needed. Obviously, with the Fourth of July, we have to check, double check with people for that week. But, if July 2nd works for your Honor, then I think that would be fine.

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THE COURT: Is the Fourth of July midweek? It is, isn't it?

MR. CLUBOK: It is a Wednesday so it is possible, I suppose, that week could be tough for some people.

THE COURT: Maybe we should start the following week, the 9th. Does that work?

MR. CLUBOK: That's okay with us, I believe.

THE COURT: Ms. Klein, does that work for you?

MS. KLEIN: Mr. Cruciani, are you still on?

MR. CRUCIANI: I am, and it does.

MR. CLUBOK: I believe that should work for us, your Honor.

THE COURT: That's very good. And let me say, also, that another significant reason for bifurcating is so that I can very carefully consider the evidence in this case and the law that counsel will brief before I present any issues to the jury assuming without suggesting one way or the other or otherwise, of course, that there may be a judgment in favor of the plaintiff. And that probably is even more important than avoiding delays due to consideration of some of the complex issues that I outlined earlier.

So I think this really will work for the best, not only for the parties to receive a considered decision, but also from the point of view of avoiding jury delays.

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Now, I would like counsel to have the opportunity to brief whatever issues they wish to brief, but I think that counsel should confer on what issues they are going to brief so that each side will have the opportunity to address those issues.

And, I would also like to have counsel address the issue of the proper interpretation of CDS losses, whether the contract is ambiguous and whether parol evidence will need to be taken on that issue.

I would like to leave the call at this point and have you discuss with Ms. Barnett how long you need for this briefing, what page limits you think you need and what you want to do with the previously scheduled May 8th pretrial conference. It may be best to defer that until after we receive the briefs; but if there are other issues that you think you are going to need to deal with in the near future, we can go ahead.

So, I'm going to leave the call at this time. I'm requesting that the plaintiff obtain a copy of the transcript of today's proceedings, e-file it and file two hard copies with the clerk of the part.

The transcript will not be so ordered until I receive the hard copies.

Let me remind you that I reserve the right to correct errors in the transcript. Therefore, if it is

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needed for any further purpose, you should be sure you have a copy as so-ordered by me and not merely as signed by the court reporter.

Thank you.

CERTIFIED TO BE A TRUE
AND CORRECT TRANSCRIPT

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EXHIBIT 19

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

UBS SECURITIES LLC and
UBS AG, LONDON BRANCH,

Plaintiffs;

- against -

HIGHLAND CAPITAL MANAGEMENT, L.P.,
HIGHLAND CDO OPPORTUNITY MASTER
FUND, L.P., HIGHLAND SPECIAL
OPPORTUNITIES HOLDING COMPANY,
HIGHLAND FINANCIAL PARTNERS, L.P.,
HIGHLAND CREDIT STRATEGIES MASTER
FUND, L.P., HIGHLAND CRUSADER
OFFSHORE PARTNERS, L.P., HIGHLAND
CREDIT OPPORTUNITIES CDO, L.P., and
STRAND ADVISORS, INC.,

Defendants.

Index No.: 650097/2009

FILED

Hon. Marcy S. Friedman
IAS Part 60

FEB 10 2020

COUNTY CLERK'S OFFICE
NEW YORK

~~PROPOSED~~ JUDGMENT

Plaintiffs UBS Securities LLC and UBS AG, London Branch, having filed a Complaint against Defendants Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company on February 24, 2009;

NOW, Plaintiffs UBS Securities LLC and UBS AG, London Branch having filed their Second Amended Complaint against Defendants Highland Special Opportunities Holding Company ("SOHC"), Highland CDO Opportunity Master Fund, L.P. ("CDO Fund," and together with SOHC, the "Fund Counterparties"), Highland Financial Partners, L.P., Highland Credit Strategies Master Fund, L.P., Highland Crusader Offshore Partners, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc., which was consolidated with the claims set forth in Plaintiffs' June 28, 2010 Complaint against Defendant Highland Capital Management, L.P. (Index. No. 650752/2010);

NOW, the Court having held trial from July 9, 2018 through July 27, 2018, on (1) Plaintiffs' third and fourth causes of action against the Fund Counterparties, and (2) Defendant Highland Capital Management, L.P.'s counterclaims against Plaintiffs;

AND the Court having rendered a final Decision and Order after Trial on November 14, 2019, in which it found in favor of Plaintiffs UBS Securities LLC and UBS AG, London Branch on their third and fourth causes of action against the Fund Counterparties, and dismissed Defendant Highland Capital Management, L.P.'s counterclaims with prejudice;

IT IS NOW HEREBY ORDERED AND ADJUDGED that Plaintiffs UBS Securities LLC with an address of 677 Washington Blvd, Stamford, Connecticut, and 299 Park Avenue, New York, New York and UBS AG, London Branch with an address of Finsbury Avenue, London United Kingdom are granted a judgment of \$519,374,149 and entitled to prejudgment interest in the amount of 9% simple interest per year from the date of the breach, which the Court has determined is December 5, 2008, for an overall judgment as of January 22, 2020 of \$1,039,957,799.44, with additional interest per day thereafter of \$128,065 until entry of judgment, to be apportioned among Defendants as follows:

- (i) \$264,880,815.99 against Defendant Highland CDO Opportunity Master Fund, L.P. with an address of 52 Reid Street, Hamilton, Bermuda, plus \$265,497,661.73 in prejudgment interest, for a total judgment against Defendant Highland CDO Opportunity Master Fund, L.P. as of January 22, 2020 of \$530,378,477.72 with additional prejudgment interest per day thereafter of \$65,313.08 until entry of judgment in the total amount, ^{the sum of \$1,240,948.52, for} and it is ordered that Plaintiffs shall have execution ^{of \$531,619,426.24} thereof, provided that enforcement shall be stayed as to \$35,955,000 (51% of \$70.5 million); and

(ii) \$254,493,333.01 against Defendant Highland Special Opportunities Holding Company with an address of Walker House, 87 Mary Street, George Town, Grand Cayman, Cayman Islands, plus \$255,085,988.72 in prejudgment interest, for a total judgment against Defendant Highland Special Opportunities Holding Company as of January 22, 2020 of \$509,579,321.73 with additional prejudgment interest per day thereafter of \$62,751.78 until entry of judgment in the total amount, and it is ordered that Plaintiffs shall have execution thereof, provided that enforcement shall be stayed as to \$34,545,000 (49% of \$70.5 million).

*the sum of \$1,192,255.62, for
of \$510,771,605.55 X*

Dated: New York, New York
January 22, 2020

ENTER:

Marcy Friedman
HON. MARCY S. FRIEDMAN, J.S.C.

Milton A. Taylor
CLERK

FILED
FEB 10 2020
COUNTY CLERK'S OFFICE
NEW YORK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

INDEX # 650097/2009

UBS Securities LLC, UBS AG, London Branch

Plaintiff(s)/Petitioner(s)

Against

*Highland Capital Management, L.P., Highland CDO
Opportunity Master Fund, L.P., Highland Special
Opportunities Holding Company, Highland Financial
Partners, L.P., Highland Credit Strategies Fund,
Highland Crusader Offshore Partners, L.P., Highland
Credit Opportunities CDO, L.P., Strand Advisors Inc.*

Defendant(s)/Respondent(s)

JUDGMENT

Attorney for the Prevailing Party

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New York, NY 10022
(212) 906-1200

Kirkland & Ellis LLP
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New York, NY 10022
(212) 446-4800

2-2
**FILED AND
DOCKETED**

FEB 10 2020

AT 10:20 AM
N.Y., CO. CLK'S OFFICE

EXHIBIT 20

(pending ruling on motion to seal)

EXHIBIT 21

(pending ruling on motion to seal)

EXHIBIT 22

(pending ruling on motion to seal)

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

In Re: HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-sgj11
UBS Securities LLC, et al	§	
Appellant	§	
vs.	§	
Highland Capital Management, L.P.	§	3:20-CV-03408-G
Appellee	§	

[1273] Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # [1089](#)) Entered on 10/23/2020.

**APPELLANT RECORD
VOLUME 6**

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

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

-----X
In re: : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

INDEX

**APPELLANTS' AMENDED STATEMENT OF ISSUE AND
DESIGNATION OF RECORD ON APPEAL**

¹ The last four digits of the Debtor's taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Bankruptcy Court, Suite 700, Dallas, TX 75201.

Pursuant to instructions by the Clerk of Court (*see* Docket No. 1458), Appellants UBS Securities LLC and UBS AG, London Branch (together “UBS” or “Appellants”) submit this amended statement of issue and designation of record on appeal in connection with their appeal of the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* (Bankruptcy Case No. 19-34054-sgj11) [Docket No. 1273], dated October 22, 2020 and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020.

I. STATEMENT OF ISSUE TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court err as a matter of law by approving the Debtor’s claim compromise as fair, equitable, and in the best interest of the estate under Federal Rule of Bankruptcy Procedure 9019?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

- Vol. 1*
1. The Notice of Appeal:
- 000001* a. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1339);
- 000010* b. Amended Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1369).
2. The Judgment, Order, or Decree Appealed from:
- 000019* a. Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith (Dkt. 1273).
3. Any Opinion, Findings of Fact, and Conclusions of Law of the Bankruptcy Court:

To the extent included in or underlying the documents identified in part II.5 herein.

- 000021* 4. The Docket Sheet for Bankruptcy Case No. 19-34054-sgj11.

5. Documents listed below (as described in the Docket Sheet for Bankruptcy Case No.

19-34054-sgj11):

<i>Vol. 2</i>	Date Filed	Docket No.	Description/Docket Text
<i>000301</i>	12/4/2019	1	(2 pgs) Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
<i>000303</i>	12/27/2019	281	(100 pgs; 4 docs) Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) (Hayward, Melissa)
<i>000403</i>	1/9/2020	339	(5 pgs) Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document # 281) Entered on 1/9/2020. (Okafor, M.)
<i>000408</i>	3/2/2020	488	(18 pgs) Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # 421) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
<i>000426</i>	9/21/2020	1079	(61 pgs) Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)944 Chapter 11 plan). (Annable, Zachery)
<i>Vol. 3</i>	9/21/2020	1080	(155 pgs; 3 docs) Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)(Annable, Zachery)
<i>000487</i>	9/23/2020	1089	(26 pgs; 2 docs) Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A--Proposed Order) (Annable, Zachery)
<i>000642</i>	10/15/2020	1173	(11 pgs; 2 docs) Notice (Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1080 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)). (Attachments: # 1 Exhibit C/D to
<i>000668</i>			

Date Filed	Docket No.	Description/Docket Text
		Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/16/2020	1191	(8 pgs) Response opposed to (related document(s): 1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/19/2020	1220	(11 pgs) Reply to (related document(s): 1190 Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/28/2020	1303	(2 pgs) Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 & #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)
10/30/2020	1315	(3 pgs) Order directing UBS' Offer of Proof (RE: related document(s)1089 Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.) ²
6/8/2020	719	SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
6/8/2020	720	SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)

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000818

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² This designation includes the underlying documents that UBS submitted to the Bankruptcy Court in hard copy pursuant to this ruling.

	Date Filed	Docket No.	Description/Docket Text
Vol. 4 000823	6/8/2020	721	SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
000824 Thru Vol. 5	8/7/2020	933	(431 pgs; 23 docs) Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page - to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page - to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page - to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page - to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page - to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page - to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page - to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page - to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page - to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page - to be filed under seal upon order from Court)) (Platt, Mark)
Vol. 6 001255	8/26/2020	996	(34 pgs) Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund - Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) (sealed exhibits)
001289	9/23/2020	1090	(94 pgs; 7 docs) Declaration re: (Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) (Annable, Zachery)
001383	10/5/2020	1127	SEALED document regarding: Exhibit B--Cornerstone Monetization Schedule per court order filed by Debtor

Date Filed	Docket No.	Description/Docket Text
		Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1128	SEALED document regarding: Exhibit 2 - Partial Final Award dated March 6, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.).
10/5/2020	1129	SEALED document regarding: Exhibit 3--Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1130	SEALED document regarding: Exhibit 4--Final Award dated April 29, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/16/2020	1190	(42 pgs; 2 docs) Objection to (related document(s): 1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # 1 A-C) (Sosland, Martin)
10/16/2020	1192	(36 pgs; 3 docs) Declaration re: W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)1190 Objection). (Attachments: # 1 Exhibit 1-6 # 2 Attachments A-C) (Sosland, Martin)
7/10/2020	817	Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 812 Hearing held on 7/8/2020. (RE: related document(s)737 Motion to extend or limit the exclusivity period (RE: related document(s)668 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M.

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001523

Date Filed	Docket No.	Description/Docket Text
		Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.), 813 Hearing held on 7/8/2020. (RE: related document(s)747 Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)459 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
8/26/2020	998	Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s)771 Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)

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001543

<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
10/23/2020	1271	Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1256 Hearing held on 10/20/2020. (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), 1257 Hearing held on 10/20/2020. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)

Respectfully submitted,

DATED this 25th day of November 2020.

LATHAM & WATKINS LLP

By /s/ Sarah Tomkowiak
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candice.carson@butlersnow.com

*Counsel for UBS Securities LLC and UBS
AG, London Branch*

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Appellants' Amended Statement of Issue and Designation of Record on Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 25, 2020.

/s/ Martin Sosland

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

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

-----X
In re : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

**OBJECTION TO THE PROOF OF CLAIM FILED BY
REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND**

¹ The Debtor's last four digits of its taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

UBS Securities LLC and UBS AG, London Branch (together, “UBS”), by and through their undersigned counsel, hereby submit this objection (the “Objection”) to Proof of Claim No. 72 (the “Proof of Claim” or “Redeemer Claim”), filed by Redeemer Committee of the Highland Crusader Fund (“Redeemer”). In support of this Objection, UBS respectfully states as follows:

PRELIMINARY STATEMENT

The Redeemer Claim arises from an Arbitration Award issued by an American Arbitration Association (“AAA”) panel against the Debtor. As set forth herein, however, there are fundamental flaws with several key aspects of both the Arbitration Award and the Redeemer Claim generally. For one thing, the Arbitration Award that underlies the Proof of Claim is actually two competing “final” arbitration awards—both issued by the same arbitral panel in the same proceeding, but neither of which has been confirmed, or otherwise entered as a final judgment, by any court of competent jurisdiction.

In rendering these awards, the arbitral panel impermissibly substantively (and unilaterally) modified several aspects of its first “final” arbitral award *after* that award had already been issued. This was improper as a matter of law. Under the long-standing common law doctrine of *functus officio*—not to mention the binding AAA Commercial Arbitration Rules that governed the arbitration proceedings in question—“anything an arbitrator does to modify a final award after it has been issued is without effect because at that point the arbitrator lacks any power to reexamine that decision.” *See Hill v. Wackenhut Servs. Int'l*, 971 F. Supp. 2d 5, 12 (D.D.C. 2013); AAA R-50 (“The arbitrator is not empowered to redetermine the merits of any claim already decided.”). This fact alone renders at least **\$36.5 million** of the amounts Redeemer is claiming through its Proof of Claim unrecoverable and subject to vacatur.

Beyond that, roughly \$115 million of the remaining \$154 million in claims that Redeemer asserts are functionally worthless. Such amounts relate to what Redeemer refers to as its claims

for “Deferred Fees” and the “Cornerstone Award.” But under the express terms of the Arbitration Award and the Crusader Fund¹ governing documents by and between Redeemer and the Debtor, Redeemer cannot recover either the “Deferred Fees” or “Cornerstone Award” amounts from the Debtor without triggering an obligation to turn over assets of great value to the Debtor. The amounts that Redeemer must turn over to the Debtor to collect on the “Deferred Fees” and “Cornerstone Award” will, in all likelihood, eclipse any actual recovery Redeemer might receive from the Debtor’s estate on such claims as part of this bankruptcy. What that means is that Redeemer has grossly overstated its claim, and the true value of Redeemer’s legitimate and allowable claims is unlikely to exceed \$40 million, at the most.

JURISDICTION

1. This Court has jurisdiction to consider the Objection under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. § 1409.

2. The statutory predicates for the requested relief are section 502 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 3007-1 of the Local Rules of the United States Bankruptcy Court of the Northern District of Texas (the “Local Rules”).

BACKGROUND

A. The Debtor’s Chapter 11 Bankruptcy Petition

¹ “Crusader Fund” is defined to include Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland Crusader Fund II, Ltd.

3. The Debtor, Highland Capital Management, L.P. (the “Debtor” or “HCM”), is an investment management firm that manages a variety of hedge funds, structured investment vehicles, and mutual funds.

4. On October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for chapter 11 relief in the Bankruptcy Court for the District of Delaware. Pursuant to an order dated December 4, 2019, the Debtor’s bankruptcy proceedings were transferred to this Court under the above-captioned case number.

5. On March 2, 2020, this Court entered a general *Order (i) Establishing Bar Dates for Filing Claims and (ii) Approving the Form and Manner of Notice Thereof*. (Dkt. No. 488.) Pursuant to that order, the general bar date for proofs of claim was set for April 8, 2020.

B. Redeemer’s Proof of Claim

6. On April 3, 2020, Redeemer filed Proof of Claim No. 72 against the Debtor. (**Ex. A**, Proof of Claim (“POC”) No. 72 at 1.) The Redeemer Claim is predicated upon what it refers to as the “Arbitration Award,” which is actually two separate “final” arbitration awards issued in an arbitration proceeding that Redeemer filed against the Debtor in or around 2016. (**Ex. B**, Partial Final Award (defined below) (the “PFA”) at 4.) Though its claims are principally based on the awards from this prepetition arbitration proceeding against HCM (which concerned only the Debtor’s alleged prepetition conduct), the Redeemer Claim takes the position that any claims it might have are not, in fact, “prepetition claims.” (**Ex. A**, POC Rider at 1.) Instead, Redeemer states that the Arbitration Award is actually “an executory contract under section 365 of the Bankruptcy Code” that the Debtor has not yet “moved to assume or reject.” (*Id.*) Redeemer, thus, purports to be filing the Proof of Claim only “out of an abundance of caution.” (*Id.*)

7. In its Proof of Claim, Redeemer asserts that it has a “Damage Claim” against the Debtor for “at least \$190,824,557 plus interest that is accruing beginning as of October 16, 2019,

the date that HCM filed its bankruptcy case.” (*Id.*) Redeemer then lists the “separate components of the Damage Claim,” which it notes are “set forth in the Final Award.” (*Id.*) The components of Redeemer’s Damage Claim that are directly relevant to UBS’s Objection are the so-called (1) “Deferred Fee Claim” (for which Redeemer claims \$43,105,395); (2) “Distribution Fee Claim” (\$22,922,608); (3) “Barclays Claim” (\$30,811,366); (4) “Cornerstone Award” (\$71,894,891); (5) “Legal Fees, Costs, and Expenses” (\$11,351,850); and (6) 224 days of prejudgment interest calculated within the (a) “Taking of Plan Claims” (\$171,576 of the \$3,277,991 Redeemer claims); (b) “CLO Trades Claim” (\$24,820 of \$685,195); (c) “Credit Suisse Claim” (\$151,085 of \$3,660,130); and (d) “UBS Claim” (\$112,776 of \$2,600,968). (*Id.* at 1-2.)

8. In addition to the liquidated Damage Claim itself, Redeemer also asserts “an unliquidated claim for post-petition interest, attorneys’ fees, costs and other expenses that continue to accrue in connection with the Damage Claim” (the “Post-Petition Claim”). (*Id.* at 2.) Redeemer cites no authority in support of this Post-Petition Claim. (*See generally id.*)

9. Lastly, Redeemer also asserts a claim for the transfer of certain interests or, in the alternative, “an unliquidated amount” for what it refers to as the “Cancellation of Limited Partnership Interests” in the Crusader Fund held by (i) HCM and Charitable DAF Fund, L.P. and (ii) Eames, Ltd. (“Eames”). (*Id.* at 2.) The claim for interests held by Eames appears to be based on certain relief set forth in the Final Award (and only the Final Award), which Redeemer claims provides for “HCM to transfer, or take all necessary steps to cause the transfer of, such interests to the Redeemer Committee for the benefit of the Crusader Fund.” (*Id.*) Similarly, Redeemer claims to reserve its right to seek the distribution of funds held in the “Deferred Fee Account,” or to claim an unliquidated amount if such distributions are not made. (*Id.*)

C. Background on Redeemer’s Damage Claim and the Arbitration Award

10. The events giving rise to Redeemer’s purported Damage Claim against HCM appear to be a series of disputes between Redeemer and HCM that arose out of their efforts to wind down the Crusader Fund—a lengthy process that began in or around 2008. (Ex. B, PFA at 2-3.) Specifically, Redeemer’s Damage Claim appears to relate to a contractual “Plan and Scheme” by and between Redeemer and HCM that was meant to “enable the orderly management, sale, and distribution of the assets” of the Crusader Fund as part of their wind-down. (*Id.* at 2.)

11. In or around July 2016, Redeemer initiated an arbitration before the AAA—which the parties agreed would be subject to the AAA Commercial Arbitration Rules—and asserted, among other things, breach of contract and fiduciary duty claims against HCM. (*Id.* at 3-4.) Final hearings in the arbitration were held in September 2018. (*Id.* at 7.) Following such hearings, closing arguments, and post-hearing briefing, “the record was declared closed” on December 12, 2018. (*Id.* at 7.)

12. In early 2019, the panel of arbitrators (the “Panel”) presiding over Redeemer’s arbitration against HCM rendered two separate “final” arbitral awards: an initial Partial Final Award dated March 6, 2019 (the “Partial Final Award”) and a subsequent Final Award dated April 29, 2019 (the “Final Award”). (*See id.*; **Ex. C**, Final Award (the “FA”).) The first of these awards, the Partial Final Award, was a 56-page single-spaced reasoned decision unanimously signed by all three members of the Panel, which addressed the substantive claims and counterclaims that Redeemer and HCM had raised in the arbitration. (*See generally* Ex. B, PFA.)

There are two aspects of the Partial Final Award that are relevant to this Objection:

- **Barclays LP Interests.** As part of the March 6, 2019 Partial Final Award, the Panel analyzed, discussed, and ruled on one of Redeemer’s core allegations—namely, that HCM improperly transferred certain limited partner interests in the Crusader Fund that belonged to Barclays (the “Barclays LP Interests”) from Barclays to an HCM affiliate, Eames. (*See, e.g.*, Ex. B, PFA at 8, 15, 20-22, 54.) The Panel not only analyzed HCM’s transfers of these Barclays LP Interests, it

specifically determined in the Partial Final Award that such transfers were a “breach” of the parties’ agreement and, thus, “improper.” (*Id.* at 21-22, 54.) But—critically—the Panel did not treat HCM’s transfers of the Barclays LP Interests to Eames as an independent wrongdoing. Instead, the Partial Final Award only ever discussed the transfer of the Barclays LP Interests in the context of one of Redeemer’s broader sets of claims, known as its “Distribution Fee Claim.” (*See id.* at 15; *id.* at 20 (analyzing “Payments to Barclays and Eames *as Distributions*”).) After determining that HCM’s transfers of the Barclays LP Interests were “improper,” (*id.* at 20-22, 54), the Panel went on to award Redeemer damages arising from such conduct as part of the Partial Final Award. In particular, the Partial Final Award provided Redeemer with a “total” of \$14,452,275 in aggregate damages (plus prejudgment interest) to cover all of the “improper” conduct relating to its Distribution Fee Claim—a list that specifically included HCM’s transfers of the Barclays LP Interests.²

- **Prejudgment Interest.** In addition to finding HCM liable for, and awarding damages arising out of, HCM’s transfer of the Barclays LP Interests, the Panel also awarded Redeemer a limited amount of prejudgment interest for certain types of compensatory damages as part of the Partial Final Award. (*See e.g., id.* at 48, 54-55.) In so doing, the Panel set an outside date by which the prejudgment interest would no longer run—March 6, 2019, *the date of the Partial Final Award itself.* (*See, e.g., id.* at 54 (awarding “statutory interest of 9%, calculated on a simple basis, from the dates of taking in January and April 2016 through the date of this Partial Final Award”).)

13. On March 7, 2019—the day after the Panel issued the Partial Final Award—Redeemer sent an email to the Panel, requesting that the Panel modify the Partial Final Award. (Ex. B, FA at 1.) On March 14, 2019, before HCM even had a chance to respond, the Panel unilaterally issued a “Disposition of Application for Modification of Award” (the “Modification of Award”). (*Id.*) This modification added a completely new category of damages as a result of HCM’s “improper” transfer of the Barclays LP Interests—damages above and beyond the \$14.5 million already ordered for such conduct in the Partial Final Award. (*Id.* at 1, 11.)

² (*Id.* at 22 (concluding that “it was *improper* for Highland to include in the calculation of the amounts distributed to the Redeemers . . . [t]he *Distribution Fee* attributable to the value of the LP interests and amounts transferred to Eames”); *id.* at 54 (“[W]e find that the Respondent is *liable* for damages . . .” for “[t]he *Distribution Fee* attributable to the value of the LP interests and amounts transferred to Eames”).)

14. The Panel styled this addition as a formal modification under Rule 50 of the AAA Rules to “correct any clerical, typographical, or computational errors in the award.” (*Id.* at 1 n.1.) Under that Rule, however, the Debtor should have had “10 calendar days to respond to [Redeemer’s] request” in writing. *See* AAA R-50. The Debtor never got that chance. HCM opposed the Modification of Award on March 17, 2019, noting that “the Panel is not empowered to take any further action beyond the issuance of its Partial [Final] Award,” and requesting the Panel withdraw its Modification of Award and refrain from any further modification of the Partial Final Award. (Ex. C, FA at 2.)

15. Still, Redeemer requested—and the Panel granted—further modifications not once, but three times. (*Id.*) On April 5, 2019 (ten days after Rule 50’s allotted period had closed), Redeemer submitted another formal written request to the Panel in which it asked the Panel to “award further damages in connection with the Barclays claim,” as well as to “award prejudgment interest through” an extended date. (*Id.* at 2.) The Debtor again opposed Redeemer’s request for such “further damages” on the basis that such post-award modifications are improper under the AAA Rules and governing law. (*Id.* at 2-3.)

16. On April 29, 2019, the Panel entered a new “Final Award” that agreed to “re-adopt all prior findings and conclusions” yet superseded and “specifically modified” portions of its prior Partial Final Award. (*Id.* at 1.) Such modifications included the correction of four non-controversial “clerical, typographical, or computational errors.” (*Id.* at 11-12, 16.) But the Final Award also included a number of substantive changes to the Partial Final Award. For instance, through the Final Award, the Panel (1) awarded Redeemer an additional \$21,768,743 in damages due to the transfers of the Barclays LP Interests (as well as prejudgment interest on these new damages); (2) granted injunctive relief requiring HCM to “take all necessary steps to cause the

improperly taken [] LP interests currently owned and controlled by Respondent through Eames, Ltd to be returned to Claimant”; and (3) completely reconsidered the prior time limitation on prejudgment interest that it had imposed under the Partial Final Award. (*Id.* at 15, 18.) Instead of limiting the amounts of prejudgment interest to only those amounts that ran through March 6, 2019, the Panel now held that all prejudgment interest would run indefinitely until “the earlier of the date paid or the entry of a final judgment.” (*Id.* at 2, 14-15.)

17. Neither the Partial Final Award nor the Final Award (or any parts of them) has been confirmed or otherwise entered as a final judgment by any court of competent jurisdiction.

D. Redeemer and the Debtor Reach Agreement as to the Debtor’s Preferred Resolution of the Redeemer Claim

18. In recent weeks, the Court, the Debtor, and parties in interest have decided to proceed towards mediation as a way to resolve certain creditor claims and negotiate a confirmable plan of reorganization or liquidation. (*See* Dkt. Nos. 817, 864, and 897 (July 8, July 14, and July 21, 2020 Hr’g Tr.))

19. On July 8, 2020, the Debtor informed this Court that it and Redeemer had reached a settlement in principle as to Redeemer’s claim amount and would file their agreement when certain language was finalized. (Dkt. 817, July 8, 2020 Hr’g Tr.) The Debtor acknowledged the settlement value of the Redeemer Claim is not as simple or straightforward as with a typical arbitration award and, instead, required negotiation on various points. (*Id.*) The Debtor has not filed a settlement agreement, and little has been shared with UBS about the settlement. UBS files this Objection to preserve its ability to object to the resolution of the Redeemer Claim and reserves its rights to make additional objections once the settlement agreement is filed. In this case, any resolution of the Redeemer Claim is of particular interest to the Debtor’s other creditors, including UBS, because of a reciprocal obligation that was included in the Partial Final Award requiring

Redeemer to contribute certain shares of significant value to the Debtor's estate—value that other creditors would have a pro rata interest in.

20. UBS hereby objects to the Proof of Claim, including its characterization of the Arbitration Award as an “executory contract” and the allowance of those portions (including any Post-Petition Claim portions³) of the Redeemer Claim arising from the “new” relief in the Final Award. UBS further objects to any resolution of the Redeemer Claim that diminishes the value Redeemer will owe to the Debtor's estate upon payment of its claim.

ARGUMENT

I. THE ARBITRATION AWARD ON WHICH REDEEMER'S ENTIRE DAMAGE CLAIM IS BASED IS NOT AN “EXECUTORY CONTRACT.”

21. Redeemer's Damage Claim against the Debtor's estate is based entirely on the “Arbitration Award.” In its Proof of Claim, however, Redeemer takes the perplexing position that the Award—which arose from a prepetition arbitration proceeding concerning claims that related exclusively to prepetition conduct of the Debtor—does not actually reflect any general “prepetition claims” against the Debtor's estate. (Ex. A, POC Rider at 1.) Redeemer insists, instead, that the Award is actually “*an executory contract* under section 365 of the Bankruptcy Code.” (*Id.*) Because “HCM has not yet moved to assume or reject” the Award, Redeemer takes the position that its deadline to file a Proof of Claim “remains undetermined” and it is only filing the instant Proof of Claim “out of an abundance of caution.” (*See id.* (“By filing the Proof of Claim, [Redeemer] does not concede that the amounts awarded under the Arbitration Award are prepetition claims or that it is required to file a proof of claim to be entitled to the amounts

³ To the extent the settlement agreement proposed by the Debtor and Redeemer includes amounts for Redeemer's Post-Petition Claim, UBS objects. However, should the Court agree to allow that Post-Petition Claim and grant Redeemer post-petition interest or further relief, UBS reserves all rights to assert and seek post-petition interest or further relief in its own claim.

described herein.”.) This appears to be little more than an attempt by Redeemer to transform its contingent, disputed, and unsecured prepetition litigation Damage Claim against the Debtor into something it is not—a bona fide executory contract between Redeemer and the Debtor.

22. It is axiomatic, however, that “an executory contract *must be a ‘contract’* and not some other legal instrument.” *See In re Denman*, 513 B.R. 720, 723 (Bankr. W.D. Tenn. 2014); *see also In re e2 Commc'ns, Inc.*, 354 B.R. 368, 402 (Bankr. N.D. Tex. 2006) (“An executory contract *is a contract* where performance remains due to some extent on both sides.”). That is the end of Redeemer’s argument that the Arbitration Award is an “executory contract” here. The Arbitration Award simply is not a contract, much less an “executory contract” under 11 U.S.C. § 365. The mere fact that the Arbitration Award imposes certain obligations on Redeemer or the parties that are to “be performed in the future and are, thereby, executory in nature” is not dispositive:

[T]he ‘executory’ nature of an obligation does not, ipso facto, imply an ‘executory contract.’ . . . Contract rights arise upon an offer, acceptance, and transfer of adequate consideration between at least two assenting parties. If these elements do not exist, a contract right does not exist and, thereby, an executory contract cannot exist.

See In re Denman, 513 B.R. at 723. Redeemer has not identified any legal authority suggesting an arbitration award can, should be, or ever has been interpreted to be an “executory contract” under 11 U.S.C. § 365. There is no such authority. Nor is there any indication the Debtor believes the Arbitration Award is an executory contract. Indeed, the comprehensive Schedule G of all “Executory Contracts and Unexpired Leases” filed by the Debtor many months ago makes no reference to either Redeemer or the Arbitration Award. (*See* Dkt. No. 247.) That being the case, Redeemer’s attempt to recharacterize the Arbitration Award—and its related general, unsecured, contingent, and disputed Damage Claim—as an “executory contract” fails as a matter of law.

II. NEW RELIEF GRANTED BY THE FINAL AWARD IS SUBJECT TO VACATUR AND CANNOT BE THE BASIS OF ANY CLAIM AGAINST THE DEBTOR.

23. In issuing the Final Award, the Panel overstepped its fundamental authority as arbitrators. An “arbitrator derives his or her powers from the parties’ agreement to forgo the legal process and submit their disputes to private dispute resolution.” *Stolt-Nielsen S.A. v. AnimalFeeds Int’l Corp.*, 559 U.S. 662, 682 (2009). This leads to a simple maxim: where an arbitrator has “exceeded the authority granted by the parties’ agreement to arbitrate” in rendering an award, such an award should be vacated. *See Smith v. Transp. Workers Union of Am.*, 374 F.3d 372, 375 (5th Cir. 2004) (“If an arbitral panel exceeds its authority, it provides grounds for a court to vacate that aspect of its decision.”); *Townes Telecomms., Inc. v. Travis, Wolff & Co.*, 291 S.W.3d 490, 493-94 (Tex. App. 2009) (vacating portion of award rendered “in direct contravention of the [parties’] agreement and which exceeded the powers granted to [the panel] by the parties”).

24. One way in which arbitrators exceed their authority is by modifying a substantive aspect of a final award *after* such award has already been rendered. In fact, courts across the country have long recognized, and applied, the following “general rule” to prohibit such modifications: “[O]nce an arbitration panel renders a decision regarding the issues submitted, it becomes *functus officio* and lacks any power to reexamine that decision.” *See Colonial Penn Ins. Co. v. Omaha Indem. Co.*, 943 F.2d 327, 331 (3d Cir. 1991); *Hill v. Wackenhut Servs. Int’l*, 971 F. Supp. 2d 5, 12 (D.D.C. 2013) (“This means that anything an arbitrator does to modify a final award after it has been issued is without effect because at that point the arbitrator lacks any power to reexamine that decision.”). Indeed, the Northern District of Texas, the Fifth Circuit, and Texas state courts have specifically endorsed, and applied, this doctrine. *See Weinberg v. Silber*, 140 F. Supp. 2d 712, 724 (N.D. Tex. 2001) (“[T]he arbitrator shall not revisit his decision on the merits, as his authority to do so has expired.”), *aff’d*, 57 F. App’x 211 (5th Cir. 2003); *Smith*, 374 F.3d at

375 (“By modifying the original award, the arbitration panel in this case exceeded the authority granted by the parties’ agreement to arbitrate.”); *Barsness v. Scott*, 126 S.W.3d 232, 241 (Tex. App. 2003) (“When the panel subsequently modified its original award, . . . the panel exceeded its authority.”).

25. This doctrine is so pervasive that it is codified directly into the AAA’s Commercial Arbitration Rules. In particular, Rule 50 of the AAA Rules—entitled “Modification of Award”—states that “within 20 calendar days after the transmittal of an award,” the parties “may request the arbitrator” to “correct any clerical, typographical, or computational errors in the award,” but “[t]he arbitrator is *not* empowered to redetermine the merits of any claim already decided.” *See* AAA R-50.

26. Here, the Panel did precisely what it was not permitted to do: It rendered a comprehensive initial Partial Final Award, but then—at Redeemer’s urging—issued a series of subsequent decisions to modify that Partial Final Award, in which the Panel redetermined the merits of claims previously decided. This culminated in a new “Final Award” that materially modified, and is at direct odds with, key aspects of the Panel’s own prior Partial Final Award. This new Final Award improperly modified the Partial Final Award in two distinct ways.

27. **First**, the Final Award dramatically expanded HCM’s purported liability for Redeemer’s claim that HCM had improperly transferred the Barclays LP Interests to Eames. Whereas the Partial Final Award had awarded Redeemer total damages in the amount of \$14,452,275 (and prejudgment interest through March 6, 2019) for the Distribution Fee Claim, including for HCM’s “improper” transfer of Barclays LP Interests, the Panel elected in the Final Award to grant Redeemer an additional \$21,768,743 in damages arising out of HCM’s “improper” transfer of the Barclays LP Interests. (Ex. C, FA at 18.) That is not all. The Final Award also

awarded Redeemer prejudgment interest on these new compensatory damages—a sum that, on its own, adds yet another \$9,042,623 to the mix. (*Id.*) All told, the Panel’s modification of these aspects of the Partial Final Award resulted in a combined total of **\$30,811,366 in new damages** for HCM’s transfers of the Barclays LP Interests—an amount Redeemer itself now refers to as the “Barclays Claim.” (Ex. A, POC Rider at 2.) On top of these additional liquidated damages, the Panel ordered HCM to “take all necessary steps to cause the improperly taken [] LP interests currently owned and controlled by Respondent through Eames, Ltd to be transferred to Claimant . . . within sixty (60) days from the date of transmittal of this Final Award”—mandatory injunctive relief that is also not mentioned anywhere in the Partial Final Award. (Ex. C, FA at 18.)

28. **Second**, in the Final Award, the Panel reconsidered its prior ruling on prejudgment interest from the Partial Final Award. The Panel had previously ordered that HCM pay Redeemer a finite amount of prejudgment interest (9% per simple interest annum) “through the date of this Partial Final Award” (March 6, 2019), (Ex. B, PFA at 14), yet the Panel threw that limitation out entirely in the Final Award. After openly acknowledging its prior ruling, (*see* Ex. C, FA at 14 (“In the March 6 Partial Final Award, we awarded damages and interest through the date of that award”)), the Panel announced in the Final Award that it was doing away with that March 6, 2019 end date and, instead, all such interest would run through “the earlier of the date paid or the entry of a final judgment,” (*id.* at 2, 14). In addition to the \$30.8 million in additional damages for the Barclays LP Interests, the additional interest contemplated by the Final Award accounted for at least another \$5,698,571 through the Petition Date.⁴

⁴ Redeemer’s Proof of Claim makes clear that it is also asserting claims for interest accrued *post-petition*. (Ex. A, POC Rider at 2.) Assuming Redeemer is entitled to any additional interest post-petition (*see supra* note 4), this \$5.7 million figure does not fully capture the impact that the Panel’s decision in the Final Award to remove the March 6, 2019 limitation on prejudgment interest will have had on the Redeemer Claim.

29. Under Rule 50 of the AAA Rules, the only way these post-award modifications might have been allowed is if they were legitimate attempts to correct “clerical, typographical, or computational errors” in the Partial Final Award. *See* AAA R-50. They are not. For starters, the Final Award very clearly contains modifications to address four simple “clerical errors” (all four of which were self-evident typos). (Ex. C, FA at 11-12.) Any suggestion that the two major modifications discussed above were also “clerical” in nature is belied by their sweeping impact. Prior to the Final Award, the aggregate amount of compensatory damages expressly awarded to Redeemer under the original Partial Final Award would have been roughly \$142 million (excluding fees and costs and assuming prejudgment interest through March 6, 2019). The two modifications that the Panel made described above, standing alone, immediately add no less than \$36.5 million to that compensatory damages sum—more than a **25% increase**. In addition to these additional monetary damages, the modifications also impose mandatory injunctive relief purporting to require HCM to take the Barclays LP Interests from Eames and transfer them to Redeemer.⁵ (Ex. C, FA at 18.) Redeemer cannot seriously expect any court to view such changes that fundamentally alter—and, in this instance, significantly increase and enhance—the relief granted as a mere correction of a “clerical error.”

30. The only explanation the Panel itself has for these major modifications removes all doubt that they were not “clerical” in nature. In the Final Award, the Panel tries to excuse the new damages it awarded relating to the Barclays LP Interests by claiming there was “a paragraph missing from the damages portion” that it had left out of the Partial Final Award inadvertently. (*Id.* at 9.) But courts have considered, and rejected, this exact “explanation” before. *See Wein v.*

⁵ This aspect of the Panel’s ruling—which purports to require HCM to dispose of the assets currently being held by a non-party to the arbitration, Eames Ltd.—is independently subject to vacatur. *See Rapid Settlements, Ltd. v. Green*, 294 S.W.3d 701, 707 (1st Cir. 2009) (upholding the trial court’s decision to vacate an arbitration award “because the arbitrator exceeded his powers in issuing an award against a party not subject to arbitration”).

Morris, 909 A.2d 1186, 1198 (N.J. Super. Ct. App. Div. 2006) (deciding that AAA Rule 46, the predecessor to Rule 50, does not allow modifications to address “inadvertent omissions” and “neither expressly states nor suggests that claims denied through inadvertence could also be revisited”).

31. In reality, both of the modifications here are simply attempts by the Panel to “redetermine the merits of [a] claim already decided.” *See* AAA R-50. Indeed, both modifications related to issues that had already been directly addressed by the Partial Final Award. Not only had they been addressed, the Panel explicitly found in the Partial Final Award that HCM was liable for both transferring the Barclays LP Interests and for prejudgment interest. (Ex. B, PFA at 53-54.) In the Final Award, however, the Panel—at Redeemer’s urging—revisited these same issues and simply arrived at new, different substantive conclusions. The Panel concedes as much. With regard to prejudgment interest, the Panel freely admitted that “the March Partial Final Award contained specific language awarding interest ‘through the date of this Partial Final Award,’” but decided to reach a different conclusion in the Final Award because, in its own view, the prior ruling in the Partial Final Award was “*not determinative of this issue.*” (Ex. C, FA at 15.) That, however, is exactly what the Panel cannot do. Where, as here, the panel issued a partial final award as to a particular issue or issues, any partial final award on such issues is rendered, by definition, determinative of the issue. *See Fluor Daniel Intercontinental, Inc. v. GE*, 2007 WL 766290, at *2-3 (S.D.N.Y. Mar. 13, 2007); *see also Trade & Transp., Inc. v. Nat. Petroleum Charterers Inc.*, 931 F.2d 191, 195 (2d Cir. 1991). Since the Partial Final Award here specifically addressed both HCM’s liability for transferring the Barclays LP Interests and the amount of prejudgment interest to which Redeemer would be entitled, “the arbitrators ha[d] no further authority, absent agreement

by the parties, to redetermine [such] issue[s]” after rendering the Partial Final Award as a matter of law. *Trade & Transp., Inc.*, 931 F.2d at 195.

32. For the above reasons, the portions of the Final Award reflecting these improper, material modifications are examples of the Panel exceeding its authority and are subject to vacatur. *Smith*, 374 F.3d at 375 (“If an arbitral panel exceeds its authority, it provides grounds for a court to vacate that aspect of its decision.”). Accordingly, UBS objects to any and all portions of Redeemer’s Proof of Claim that rely on, or relate to, these modifications to the Partial Final Award.

III. ANY VALUATION OF REDEEMER’S CLAIMS MUST TAKE INTO ACCOUNT RECIPROCAL OBLIGATIONS REDEEMER OWES TO THE DEBTOR.

33. In addition to the vacatur issues described above, two of the largest components of its overall Damage Claim against the Debtor’s estate—namely, its claims relating to the “Cornerstone Award” and the “Deferred Fee Claim”—are amounts on which Redeemer has no legitimate hope of any real recovery. This is due entirely to reciprocal rights relating to the “Cornerstone Award” and “Deferred Fee Claim” that Redeemer owes to the Debtor itself under the terms of the Arbitration Award, as well as the binding “Plan and Scheme” that governs the conduct of the Crusader Fund dissolution.

34. **First**, Redeemer’s Proof of Claim attributes \$71,894,891 of its overall claims to what it refers to as the “Cornerstone Award.” (Ex. A, POC Rider at 2.) This is a reference to the order in the Final Award that HCM pay \$48,070,407 to purchase the Cornerstone shares from Redeemer at a fair market valuation of \$3,241.43 per share (plus an additional \$23,824,484 in prejudgment interest). (Ex. C, FA at 17; *see also* Ex. B, PFA at 48, 55.) Under the terms of the Final Award, however, the obligations with regard to the “Cornerstone Award” run both ways. In fact, the Final Award is clear that “[w]hen the amount awarded for the Cornerstone claim is paid by” the Debtor—including, for instance, pursuant to any confirmed plan of reorganization or

liquidation in these proceedings—Redeemer immediately “shall cause the Crusader Fund to tender its Cornerstone shares to [the Debtor].” (Ex. C, FA at 17; *see also* Ex. B, 55.)

35. In other words, upon receipt of payment by HCM of the “Cornerstone Award” portion of its claim, Redeemer must immediately cause the specific Cornerstone shares in question (which are currently in Redeemer’s control) to be turned over to HCM. This remains true even if Redeemer only recovers pennies on the dollar for its overall prepetition claim under any ultimate plan of reorganization or liquidation. What that means is that the true “value” of Redeemer’s “Cornerstone Award” claim must take into account the need to immediately give up the value of the Cornerstone shares themselves. Based on recent valuations of the Cornerstone shares in question, the “value” of such claim against the Debtor’s estate is far less than \$71.9 million. By UBS’s estimate, the shares are worth approximately \$40 million—potentially more. In all likelihood, Redeemer will tender more in value to HCM when it is forced to turn over the Cornerstone shares than it could ever recover on this portion of its prepetition claims.

36. **Second**, \$43,105,395 of the Redeemer Claim is based on its so-called “Deferred Fee Claim.” (Ex. A, POC Rider at 1.) This appears to represent the \$32,313,000 HCM was ordered to pay in the Final Award as a result of Redeemer’s “Deferred Fee Claim” and \$10,792,395 in prejudgment interest. But under the Crusader Fund’s Plan and Scheme—contracts to which both Redeemer and the Debtor are parties—Redeemer has no right to retain the full \$32,313,000 of such “Deferred Fees.” Instead, upon a final and full liquidation of all remaining Crusader Fund interests, such fees will take a “round trip” and the contractual Deferred Fees must be paid back by Redeemer to HCM. (Ex. B, PFA at 9 (“Deferred Fees were annual performance fees payable to Highland but deferred until, as, and when there would be a ‘complete liquidation’ of the Crusader Funds’ assets.”).) As with the obligation to turn over the Cornerstone shares, this

obligation to pay back the Deferred Fees will likely trigger upon any payment of the allowed prepetition claim amount as a result of HCM's bankruptcy. Moreover, as with its claim relating to the Cornerstone shares, Redeemer will almost certainly end up giving more to the Debtor through this pay-back obligation than it would receive on its "Deferred Fee Claim" under any plan of restructuring or liquidation.

37. In light of these reciprocal obligations owed by Redeemer to the Debtor, the \$115 million in claim value that Redeemer's Proof of Claim attributes to the Cornerstone Award and Deferred Fee components is vastly overstated, to say the least. In reality, Redeemer will likely be forced to turn over assets to the Debtor that are worth markedly more than the amounts it might ultimately recover on these components of its overall Damage Claim.

CONCLUSION

38. For the foregoing reasons, UBS respectfully submits that Redeemer's Proof of Claim is improper and overstated and, thus, requests that it be appropriately reduced and disallowed.

DATED this 26 day of August, 2020.

LATHAM & WATKINS LLP

By /s/ Andrew Clubok

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
Washington, District of Columbia 20004
Telephone: (202) 637-2200
Email: andrew.clubok@lw.com
sarah.tomkowiak@lw.com

and

Jeffrey E. Bjork (*pro hac vice*)

Kimberly A. Posin (*pro hac vice*)
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071
Telephone: (213) 485-1234
Email: jeff.bjork@lw.com
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BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice M. Carson (TX Bar No. 24074006)
5430 LBJ Freeway, Suite 1200
Dallas, Texas 75240
Telephone: (469) 680-5502
E-mail: martin.sosland@butlersnow.com
candice.carson@butlersnow.com

*Counsel for UBS Securities LLC and UBS
AG, London Branch*

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Objection to the Proof of Claim Filed by Redeemer Committee to the Highland Crusader Fund* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: August 26, 2020.

/s/ Martin A. Sosland
Martin A. Sosland

Exhibit A
Claim No. 72

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
 (State)

Case number 19-34054

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** Redeemer Committee Highland Crusader Fund
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
See summary page	

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Contact phone _____ Contact phone _____
 Contact email TMascherin@jenner.com Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.
See attached rider

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650* earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/03/2020
MM / DD / YYYY

/s/Terri L. Mascherin
 Signature

Print the name of the person who is completing and signing this claim:

Name Terri L. Mascherin
First name Middle name Last name

Title Partner

Company Jenner and Block LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (877) 573-3984 | International (310) 751-1829

Debtor: 19-34054 - Highland Capital Management, L.P. District: Northern District of Texas, Dallas Division		
Creditor: Redeemer Committee Highland Crusader Fund c/o Terri Mascherin, Esq. Jenner and Block 353 N. Clark Street Chicago, IL, 60654-3456 Phone: Phone 2: Fax: Email: TMascherin@jenner.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: See attached rider	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: See attached rider	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Terri L. Mascherin on 03-Apr-2020 1:51:56 p.m. Eastern Time Title: Partner Company: Jenner and Block LLP		

Your claim can be filed electronically on KCC's website at <https://epoc.kccllc.net/HCMLP>

ID: 24788159

PIN: wZvUm7fb

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the Northern District of Texas, Dallas Division

Case number 19-34054-sgj11

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1: Identify the Claim NameID: 13930498

1. **Who is the current creditor?** Redeemer Cmmttee Highland Crusader Fund
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?** **Where should notices to the creditor be sent?** **Where should payments to the creditor be sent? (if different)**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Redeemer Cmmttee Highland Crusader Fund
c/o Terri Mascherin, Esq.
Jenner & Block
353 N. Clark Street
Chicago, IL 60654-3456

Name _____
 Number _____ Street _____
 City _____ State _____ ZIP Code _____
 Address _____
 Country _____
 Contact phone _____
 Contact email _____
 Contact phone _____
 Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

See attached rider.

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? No Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650* earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)? No Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04 / 02 / 2020
MM / DD / YYYY



 Signature

Print the name of the person who is completing and signing this claim:

Name	Terri	L.	Mascherin
	First name	Middle name	Last name
Title	Partner		
Company	Jenner & Block LLP		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	353 N. Clark Street		
	Number	Street	
	Chicago	IL	60654-3456 USA
	City	State	ZIP Code Country
Contact phone	(312) 222-9350		Email tmascherin@jenner.com

**RIDER TO THE PROOFS OF CLAIM OF THE REDEEMER
COMMITTEE OF THE HIGHLAND CRUSADER FUND**

This Rider is part of the proof of claim (the “**Proof of Claim**”) filed by the Redeemer Committee of the Highland Crusader Fund (the “**Redeemer Committee**”) against Highland Capital Management, L.P. (“**HCM**” or the “**Debtor**”).

On March 6, 2019, a panel of arbitrators issued a Partial Final Award (the “**March Award**”) in favor of the Redeemer Committee against HCM. On April 29, 2019, the panel issued a Final Award (the “**Final Award**,” and together with the March Award, the “**Arbitration Award**”) in favor of the Redeemer Committee against HCM.¹ The Arbitration Award is subject to the Federal Arbitration Act and The Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Redeemer Committee timely moved to confirm the Award in the Delaware Chancery Court. HCM moved for partial vacatur of the Arbitration Award in June 2019. The time period to move to vacate the Arbitration Award expired prior to the Petition Date (as defined below). All capitalized terms that are not defined herein have the meanings given to such terms in the Arbitration Award.

The Redeemer Committee files this Proof of Claim out of an abundance of caution. The Arbitration Award is an executory contract under section 365 of the Bankruptcy Code. HCM has not yet moved to assume or reject the contract. Accordingly, the deadline to file a proof of claim remains undetermined. By filing the Proof of Claim, the Redeemer Committee does not concede that the amounts awarded under the Arbitration Award are prepetition claims or that it is required to file a proof of claim to be entitled to the amounts described herein. The Redeemer Committee reserves all rights to amend or modify this Proof of Claim in any respect, including to assert other or additional claims, or for the purpose of fixing or liquidating any contingent or unliquidated claims. This Proof of Claim is without prejudice to any other rights the Redeemer Committee may have against the Debtor, its officers, employees, successors, or assigns.

This Proof of Claim includes the following components, and each is based on the Arbitration Award (together, the “**Claim**”):

1. **Damage Claim.** The Redeemer Committee asserts a liquidated claim for at least \$190,824,557 plus interest that is accruing beginning as of October 16, 2019, the date that HCM filed its bankruptcy case (the “**Petition Date**”). As set forth in the Final Award, the separate components of the Damage Claim are as follows, and the amounts set forth below are as of the Petition Date, including prepetition interest awarded under the Arbitration Award accrued to the Petition Date:
 - a. Deferred Fee Claim: \$43,105,395 (Final Award ¶ F.a.ii.1)
 - b. Distribution Fee Claim: \$22,922,608 (Final Award ¶ F.a.ii.2)

¹ Copies of the Arbitral Award have previously been provided the Debtor, the Official Committee of Unsecured Creditors, and the Office of the United States Trustee. The Redeemer Committee reserves the right to file a copy of the Arbitral Award with the Bankruptcy Court.

- c. Taking of Plan Claims: \$3,277,991 (Final Award ¶ F.a.v)
- d. CLO Trades Claim: \$685,195 (Final Award ¶ F.a.vi)
- e. Credit Suisse Claim: \$3,660,130 (Final Award ¶ F.a.vii)
- f. UBS Claim: \$2,600,968 (Final Award ¶ F.a.viii)
- g. Barclays Claim: \$30,811,366 (Final Award ¶ F.a.ix)
- h. Legal Fees, Costs, and Expenses: \$11,351,850 (Final Award ¶ F.a.xi)
- i. Administrative Fees: \$514,164 (Final Award ¶ F.a.xii)
- j. Cornerstone Award: \$71,894,891 (Final Award ¶ F.a.ix)

The Redeemer Committee also asserts an unliquidated claim for post-petition interest, attorneys' fees, costs, and other expenses that continue to accrue in connection with the Damage Claim.

2. **Cancellation of Limited Partnership Interests.** The Final Award provides, in relevant part, for the cancellation of the limited partnership interests in the Crusader Fund that are (i) held by HCM and Charitable DAF Fund, L.P. that are identified in RC411, and (ii) held by Eames, Ltd. (Final Award ¶¶ F.a.v and F.a.x). The Final Award provides for HCM to transfer, or take all necessary steps to cause the transfer of, such interests to the Redeemer Committee for the benefit of the Crusader Fund. The Final Award also provides that the Redeemer Committee has the independent right to cause the Crusader Fund to cancel such limited partnership interests. The Redeemer Committee reserves the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cancel such limited partnership interests in accordance with the Final Award. The Redeemer Committee asserts a claim in an unliquidated amount in the event all such limited partnership interests are not cancelled in accordance with the Final Award.
3. **Deferred Fee Account.** The Arbitration Award granted the Redeemer Committee's request for a declaratory judgment with respect to the immediate distribution of the Deferred Fee Account, which the Crusader Fund continues to hold, and ordered the payment of the funds in such account to the Redeemer Committee for disbursement to the Consenting Compulsory Redeemers (March Award ¶ VII.D; Final Award ¶ F.a). The Redeemer Committee reserves the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cause the distribution of the funds held in the Deferred Fee Account in accordance with the Arbitration Award. The Redeemer Committee asserts a claim in an unliquidated amount in the event all such funds are not distributed in accordance with the Arbitration Award.

The Redeemer Committee expressly reserves all of its procedural and substantive defenses and rights with respect to any claim that may be asserted against the Redeemer Committee by the Debtor, including any rights of setoff or recoupment.

The filing of this Claim shall not constitute: (i) an admission of liability by the Redeemer Committee to any party; (ii) a waiver or release of the Redeemer Committee's rights against any person, entity, or property; (iii) a consent by the Redeemer Committee to the jurisdiction of the Bankruptcy Court with respect to the subject matter of this Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases or otherwise involving the Redeemer Committee; (iv) a waiver of the right to move to withdraw the reference to the subject matter of this Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant; (v) a waiver of the right to have final orders entered only after *de novo* review by a United States Judge; (vi) its right to trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases; (vii) its right to arbitration under the Plan and Scheme; (viii) an election of remedies; or (ix) any other rights, claims, actions, defenses, setoffs, or recoupments to which it is or may be entitled under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly reserved.

Exhibit B

Partial Final Award, March 6, 2019

(To Be Filed Under Seal)

Exhibit C

Final Award, April 29, 2019

(To Be Filed Under Seal)

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
Ira D. Kharasch (CA Bar No. 109084) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD & ASSOCIATES PLLC
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ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, TX 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for the Debtor and Debtor-in-Possession

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

In re:)
) Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹)
) Case No. 19-34054-sgj11
)
Debtor.)
)
)

**DECLARATION OF JOHN A. MORRIS
IN SUPPORT OF THE DEBTOR’S MOTION FOR ENTRY OF AN ORDER APPROVING
SETTLEMENTS WITH (A) THE REDEEMER COMMITTEE OF THE HIGHLAND
CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND CRUSADER FUNDS
(CLAIM NO. 81), AND AUTHORIZING ACTIONS CONSISTENT THEREWITH**

¹ 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.

I, John A. Morris, pursuant to 28 U.S.C. § 1746(a), under penalty of perjury, declare as follows:

1. I am a partner in the law firm Pachulski, Stang, Ziehl & Jones LLP, counsel to the above-referenced Debtor, and I submit this Declaration in support of the *Debtor's Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* being filed concurrently with this Declaration. I submit this Declaration based on my personal knowledge and review of the documents listed below.

2. Attached as **Exhibit 1** is a true and correct copy of a Stipulation entered between and among (i) Highland Capital Management, L.P. ("HCMLP"), (ii) Eames, Ltd., (iii) the Redeemer Committee of the Highland Crusader Fund (the "Redeemer Committee"), and (iv) Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland Crusader Fund II, Ltd. (together, the "Crusader Funds").

3. Attached as **Exhibit 2** is a true and correct copy of a *Partial Final Award*, dated March 6, 2019, and rendered in the arbitration between the Redeemer Committee and HCMLP, Case No. 1-16-0002-6927 (the "Arbitration").

4. Attached as **Exhibit 3** is a true and correct copy of a *Disposition of Application of Modification of Award*, dated March 14, 2019, and rendered in the Arbitration.

5. Attached as **Exhibit 4** is a true and correct copy of a *Final Award*, dated as of April 29, 2019, and rendered in the Arbitration.

6. Attached as **Exhibit 5** is a true and correct copy of a proof of claim filed by the Redeemer Committee on April 3, 2020 and denoted by the Debtor's claims agent as claim number 72.

7. Attached as **Exhibit 6** is a true and correct copy of a proof of claim filed by the Crusader Funds on April 6, 2020 and denoted by the Debtor's claims agent as claim number 81.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: September 23, 2020.

/s/ John A. Morris

John A. Morris

EXHIBIT 1

This stipulation (the “Stipulation”) is made and entered into by and among (i) Highland Capital Management, L.P., as debtor and debtor-in-possession (the “Debtor”), (ii) Eames, Ltd., (“Eames”), (iii) the Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”), (iv) Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland Crusader Fund II, Ltd. (collectively, the “Crusader Funds” and together with the Debtor, Eames, and the Redeemer Committee, the “Parties”), (v) solely with respect to paragraphs 10 through 15 of this Stipulation, Hockney, Ltd., Strand Advisors, Inc., Highland Special Opportunities Holding Company (“SOHC”), Highland CDO Opportunity Master Fund, L.P., Highland Financial Partners, L.P. (“HFPLP” and together with SOHC, the “Contingent Parties”), Highland Credit Strategies Master Fund, L.P., and Highland Credit Opportunities CDO, L.P. (collectively, the “Highland Additional Release Parties”), and (vi) solely with respect to paragraphs 10 through 15 of this Stipulation, House Hanover, LLC, and Alvarez & Marsal CRF Management, LLC, (collectively, the “Crusader Additional Release Parties,” and together with the Highland Additional Release Parties, the “Additional Release Parties”). This Stipulation provides for the allowance of general unsecured claims against the Debtor, for the Debtor and Eames to consent to the Redeemer Committee and the Crusader Funds implementing certain terms of the Arbitration Award (as defined below), and for the Debtor to take certain actions in connection with such implementation.

RECITALS

WHEREAS, on October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the “Bankruptcy Code”). The Debtor is managing and operating its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the Debtor's chapter 11 case is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, the Debtor served as the investment manager for the Crusader Funds until August 4, 2016, as of which date the Redeemer Committee, as set forth in a letter and notice dated July 5, 2016, terminated the Debtor;

WHEREAS, on July 5, 2016, the Redeemer Committee commenced an arbitration against the Debtor by filing a Notice of Claim with the American Arbitration Association in which it asserted various claims arising from the Debtor's service as the investment manager for the Crusader Funds (the "Arbitration");

WHEREAS, following an evidentiary hearing during the Arbitration, the panel of arbitrators issued (a) a *Partial Final Award*, dated March 6, 2019 (the "March Award"), (b) a *Disposition of Application for Modification of Award*, dated March 14, 2019 (the "Modification Award"); and (c) a *Final Award*, dated May 9, 2019 (the "Final Award," and together with the March Award and the Modification Award, the "Arbitration Award");

WHEREAS, as of the Petition Date, the aggregate amount of the damages awarded under the Arbitration Award, including the accrual of pre-judgment interest but before applying any offsets, was \$190,824,557, which amount includes the Debtor's obligation to purchase the shares of Cornerstone Healthcare Group ("Cornerstone") that are held by the Crusader Funds in exchange for the sum of (a) \$48,070,407 million in cash, and (b) accrued pre-judgment interest on such amount;

WHEREAS, in addition to awarding monetary damages, the Arbitration Award also provided for, among other things, (i) the cancellation of all limited partnership interests or shares in the Crusader Funds that are held by the Debtor, Eames, and Charitable DAF Fund, L.P.

(“Charitable DAF”), respectively, and (ii) the Crusader Fund to disburse the funds held in the Deferred Fee Account¹ to the Consenting Compulsory Redeemers;

WHEREAS, on April 3, 2020, the Redeemer Committee filed a proof of claim in respect of the Arbitration Award, Proof of Claim number 72 (“Claim 72”);

WHEREAS, on April 6, 2020, the Crusader Funds filed a proof of claim, Proof of Claim number 81 (“Claim 81”) that asserted a claim in the alternative to the Redeemer Committee Proof of Claim for at least \$23,483,446 in respect of certain fees that the Crusader Funds had paid to the Debtor prior to the Debtor being terminated (the “Crusader Funds Fee Claim”);

WHEREAS, the Debtor has asserted that it is entitled to certain credits or offsets with respect to the damages provided in the Arbitration Award, and that it is has certain meritorious defenses with respect to the Crusader Funds Fee Claim;

WHEREAS, the Parties have agreed to settle and resolve all claims and disputes between and among them, including Claim 72 and Claim 81, and for the Redeemer Committee and the Crusader Funds to implement certain relief granted in the Arbitration Award on the terms and conditions set forth in this Stipulation, and the Parties and the Additional Release Parties have agreed to exchange the mutual releases set forth herein:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Claim 72 shall be allowed in the amount of \$137,696,610 as a general unsecured claim.

¹ All capitalized terms not defined herein shall have the meanings given to such terms in (i) the Arbitration Award and (ii) the Joint Plan of Distribution of the Crusader Funds, and the Scheme of Arrangement between Highland Crusader Fund II, Ltd. and its Scheme Creditors (together, the “Crusader Plan”).

2. Claim 81 shall be allowed in the amount of \$50,000 as a general unsecured claim.

3. The Debtor and Eames each consent to the Crusader Funds, on or after the date an order of the Bankruptcy Court approving this Stipulation pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code becomes a final and non-appealable order (the “Stipulation Effective Date”), cancelling or extinguishing all of the limited partnership interests and shares in the Crusader Funds held by each of them respectively (collectively, the “Cancelled Highland and Eames Interests”), as provided for in the Arbitration Award. Each of the Debtor and Eames represents solely for itself that (a) it has the authority to consent to the cancellation or extinguishment of the Cancelled Highland and Eames Interests that it holds, and (b) upon the occurrence of the Stipulation Effective Date, no other actions by or on behalf of it are necessary for such cancellation or extinguishment. Each of the Debtor and Eames agrees that it will not object to the Crusader Funds, on or after the Stipulation Effective Date, cancelling or extinguishing the limited partnership interests or shares in the Crusader Funds held by Charitable DAF (the “Cancelled DAF Interests,” and together with the Cancelled Highland and Eames Interests, the “Cancelled LP Interests”). Each of the Debtor and Eames acknowledges that the cancellation or extinguishment of the Cancelled LP Interests is intended to implement Sections F.a.v and F.a.x.2 of the Final Award.²

4. The Parties acknowledge that the limited partnership interests or shares in the Crusader Funds held by the following entities and individuals shall not be extinguished pursuant to this Stipulation: Highland Capital Management Multi-Strategy Insurance Dedicated Fund, L.P.; Highland Capital Management Services; Highland 401(k) Plan; Highland 401(k) Plan Retirement Plan and Trust; Highland 401(k) Plan Retirement Plan and Trust II; James Dondero;

² See also March Award §§ III(H)(25), VII(C)(2).

and Mark Okada (collectively, the “Retained LP Interests”).

5. Each of the Debtor and Eames acknowledges and agrees that (a) the Crusader Funds have reserved (i) distributions that, absent the Arbitration Award, would have been payable in respect of the Cancelled LP Interests, (ii) funds in respect of Deferred Fees and the Deferred Fee Account that, absent the Debtor’s termination as investment manager for the Crusader Funds and the Arbitration Award, may have been payable to the Debtor in accordance with the Crusader Plan and (iii) certain other monies as to which the Debtor and Eames may have had an interest in the absence of this Stipulation (the reserved distributions and funds described in subparagraphs (i), (ii) and (iii), collectively, the “Reserved Distributions”); (b) the Crusader Funds, after the Stipulation Effective Date, intend to distribute in accordance with the Crusader Plan to the applicable holders of limited partnership interests or shares in the Crusader Funds the Reserved Distributions, and that the Debtor, Eames, and Charitable DAF shall not receive any part of such distribution; and (c) after giving effect to the cancellation or extinguishment of the Cancelled LP Interests, none of the Debtor, Eames, or Charitable DAF shall receive any further distributions, payments or fees from the Crusader Funds, including without limitation the Reserved Distributions, on account of any of the Cancelled LP Interests or any other role or position of the Debtor with respect to the Crusader Funds (including but not limited to its role as the investment manager for the Crusader Funds until August 4, 2016). The Debtor acknowledges and agrees that, beginning as of the Stipulation Effective Date, it will not receive any payments from the Crusader Funds in respect of any Deferred Fees, Distribution Fees, or Management Fees. Without limiting the foregoing, the Parties acknowledge and agree that the funds described in the first sentence of this paragraph include monies held in reserve with respect to the Reserved Distributions, the Deferred Fee Account, any Deferred Fees currently accrued or that might have

accrued in the future, any Distribution Fees, and any Management Fees.

6. The Debtor represents that, to its actual knowledge and subject to paragraph 4 above, it does not control any fund, or hold any equity interest in any entity, that holds a claim against the Crusader Funds or the Redeemer Committee (including any claims in respect of the Cornerstone shares held by the Crusader Funds, but excluding, with respect to the Crusader Funds, the right to receive distributions with respect to the Retained LP Interests).

7. On the Stipulation Effective Date, the Amended and Restated Shareholders Agreement, substantially in the form attached as Exhibit A, which shall have been executed by all parties thereto, shall be jointly released by the Parties from escrow and become effective (as executed, the "Cornerstone Shareholders Agreement"). In the event that such fully executed agreement is not released from escrow on the Stipulation Effective Date for any reason other than the Redeemer Committee or the Crusader Funds not authorizing such agreement's release from escrow, then this Stipulation shall be of no force and effect, and this Stipulation (including the agreements and settlements incorporated herein) may not be used by any Party for any purpose.

8. Except as otherwise provided in a plan of reorganization proposed by the Debtor and or other entities and agreed to by the Redeemer Committee, the Debtor shall, in good faith, use commercially reasonable efforts to monetize all shares of capital stock of Cornerstone held by the Debtor, any funds that the Debtor manages, and the Crusader Funds (collectively, the "Cornerstone Shares"), in accordance with the schedule attached hereto as Exhibit B (the "Schedule"), in order to maximize, to the extent possible under the circumstances, the proceeds of such monetization to each such entity. [REDACTED]

[REDACTED]

with respect to: (a) the Crusader Funds, including but not limited to any claims, defenses, and affirmative defenses which were or could have been brought, or which otherwise concern or are related to: (i) the Arbitration, (ii) the Debtor's service as investment manager or General Partner for the Crusader Funds, (iii) Alvarez & Marsal CRF Management, LLC's service as replacement manager of the Crusader Funds, (iv) House Hanover, LLC, as General Partner of the Crusader Funds, (v) the Cancelled LP Interests, and (vi) any distributions or payments with respect to the Deferred Fee Account, Deferred Fees, Management Fees, Distribution Fees, or Reserved Distributions, and (b) the alleged fraudulent transfers and all other claims asserted by UBS Securities LLC and UBS AG, London Branch (collectively, "UBS") in *UBS Securities LLC, et al v. Highland Capital Mgmt., L.P., et al*, No. 650097-2009 (N.Y. Sup. Ct.) or by UBS in the Debtor's chapter 11 case (collectively, the "UBS Claims"), including but not limited to claims that the Debtor or any Additional Highland Release Party could assert for contribution, indemnity or joint tortfeasor liability in connection with the UBS Claims; provided, however, that such release shall not apply with respect to the obligations of the Redeemer Committee, each of the Crusader Funds, or each of the Crusader Additional Release Parties pursuant to this Stipulation, including Exhibit B hereto, and the Cornerstone Shareholders Agreement.

- B. To the maximum extent permitted by applicable law, the Redeemer Committee, each of the Crusader Funds, and each Crusader Additional Release Party irrevocably releases, acquits, exonerates, and forever discharges (i) the Debtor, Eames, and each Highland Additional Release Party, and (ii) with respect to each such person set forth in (i) above, such person's predecessors, successors, assigns and affiliates (whether by operation of law or otherwise), and each of their respective present and former members, officers, directors, employees, managers, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, employees, subsidiaries, divisions, management companies, and other representatives, in each case acting in such capacity, from all manner of actions, whether in law, in equity, or statutory, and whether presently known or unknown, matured or contingent, liquidated or unliquidated, including any claims, defenses, and affirmative defenses which were or could have been asserted with respect to: (a) the Crusader Funds, including but not limited to any claims, defenses, and affirmative defenses which were or could have been brought, or which otherwise concern or are related to: (i) the Arbitration, (ii) the Debtor's service as investment manager or General Partner for the Crusader Funds, (iii) the Cancelled LP Interests, and (iv) any distributions or payments with respect to the Deferred Fee Account, Deferred Fees, Management Fees, Distribution Fees, or Reserved Distributions, and (b) the alleged fraudulent transfers and all other claims

asserted by UBS Securities LLC and UBS AG, London Branch (collectively, “UBS”) in *UBS Securities LLC, et al v. Highland Capital Mgmt., L.P., et al*, No. 650097-2009 (N.Y. Sup. Ct.) or by UBS in the Debtor’s chapter 11 case (collectively, the “UBS Claims”), including but not limited to claims that the Redeemer Committee, the Crusader Funds, or any Additional Crusader Release Party could assert for contribution, indemnity or joint tortfeasor liability in connection with the UBS Claims; provided, however, that (I) such release shall not apply with respect to the obligations of the Debtor, Eames, or each of the Highland Additional Release Parties under this Stipulation, including Exhibit B hereto, the allowance of or distributions in respect of Claim 72 and Claim 81, and the Cornerstone Shareholders Agreement; (II) notwithstanding anything to the contrary herein, neither James Dondero nor Mark Okada, nor any entities owned or controlled by either of them, other than the Debtor, Eames, and any Highland Additional Release Party solely with respect to such entities and not as to any capacity in which James Dondero or Mark Okada had an interest in or served with respect to such entities, is released from any claims, including without limitation any claims arising from obligations owed to the Debtor; and provided further, and solely for the avoidance of doubt, that none of the releases set forth herein shall impair the right or ability of the applicable holders of Claim 72 or Claim 81 to receive distributions of any kind from the Debtor’s estate in satisfaction of such respective claims in the amounts and on such terms as are provided for herein; and (III) in the event any of the Highland Additional Release Parties fails to execute this Stipulation, this Release is null, void and of no legal effect as to that non-signing Highland Additional Release Party.

11. At present, certain of the Parties are engaged in one or more of the following pending lawsuits and actions: (a) *Redeemer Committee of the Highland Crusader Fund v. Highland Capital Management, L.P.*, Chancery Court, Delaware, C.A. No. 12533-VCG (the “Delaware Action”); (b) *Redeemer Committee of the Highland Crusader Fund and Highland Capital Management, L.P.*, Supreme Court of Bermuda, Civil Jurisdiction, Case No. 01-16-0002-6927 (“Bermuda Action No. 1”); (c) *Highland Capital Management, L.P. and Redeemer Committee of the Highland Crusader Fund*, Supreme Court of Bermuda, Civil Jurisdiction (Commercial Court), 2017: No. 308 (“Bermuda Action No. 2”); and (d) *Redeemer Committee of the Highland Crusader Fund and Highland Capital Management, L.P.*, Grand Court of Cayman

Islands, Financial Services Division, Cause No. 153 of 2019 (CRJ) (the “Grand Cayman Action” and together with the Delaware Action and Bermuda Action No. 1, the “Redeemer Actions”). The Parties agree that (1) as of the Stipulation Effective Date, the Redeemer Committee and each of the Crusader Funds covenants not to prosecute, and shall refrain from prosecuting, any of the Redeemer Actions against the Debtor, Eames, or any of the Highland Additional Release Parties, and (2) as soon as reasonably practicable after the Stipulation Effective Date, the Debtor shall cause Bermuda Action No. 2 to be dismissed with prejudice.

12. This Stipulation, together with the Cornerstone Shareholders Agreement and the Schedule, contains the entire agreement between and among the Parties and the Additional Release Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between and among the Parties and the Additional Release Parties relating thereto.

13. This Stipulation may not be modified other than by a signed writing executed by the Parties; provided, however, that paragraphs 10 through 15 may not be modified other than by a signed writing that is also executed by the Additional Release Parties.

14. Each person who executes this Stipulation represents that he or she is duly authorized to do so on behalf of the respective Party or Additional Release Party and that each Party or Additional Release Party has full knowledge and has consented to this Stipulation, provided, however, that (a) the effectiveness of the Debtor’s execution of this Stipulation shall be subject to entry of an order of the Bankruptcy Court approving this Stipulation and authorizing the Debtor’s execution thereof, and (b) the Redeemer Committee represents and warrants to the Debtor, Eames, and each of the Highland Additional Release Parties that, in conformity with the Redeemer Committee’s corporate governance documents, at least the minimum number of

members of the Redeemer Committee have executed this Stipulation to cause it to be legally binding on the Redeemer Committee.

15. The Debtor shall use commercially reasonable efforts to cause each of the Contingent Parties to execute this Stipulation not later than the date on which the Bankruptcy Court enters an order confirming a plan of reorganization or liquidation. Notwithstanding the foregoing, the Parties acknowledge and agree that the failure of either or both of the Contingent Parties to execute this Stipulation shall not affect (a) the rights, obligations, or duties of any of the Parties or (b) the enforceability of this Stipulation.

16. Not later than September 23, 2020, the Debtor shall file with the Bankruptcy Court a motion for an order approving this Stipulation, which motion shall be in form and substance satisfactory to the Crusader Funds and the Redeemer Committee, pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code.


17. This Stipulation may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument, and shall be effective against a Party or Additional Release Party upon the Stipulation Effective Date.

18. This Stipulation will be exclusively governed by and construed and enforced in accordance with the laws of the State of New York, without regard to its conflicts of law principles, and all claims relating to or arising out of this Stipulation, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of New York, excluding New York's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Stipulation.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Stipulation as of the day and year set forth below:

Dated: HIGHLAND CAPITAL MANAGEMENT, L.P.

By: 
Name: James P. Seery *NTL*
Title: *Authorized Signatory*

REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND

Dated: Grosvenor Capital Management, L.P.

By: _____
Name: Eric Felton, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: _____
Name: Tom Rowland, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: _____
Name: Burke Montgomery, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: _____
Name: Brian Zambie, designated Representative of Grosvenor Capital Management, L.P.

In witness whereof, the parties hereto, intending to be legally bound, have executed this Stipulation as of the day and year set forth below:

Dated: HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name:
Title:

REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND

Dated: Grosvenor Capital Management, L.P.

By: /s/ Eric Felton
Name: Eric Felton, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: /s/ Tom Rowland
Name: Tom Rowland, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: /s/ Burke Montgomery
Name: Burke Montgomery, designated Representative of Grosvenor Capital Management, L.P.

Dated: Grosvenor Capital Management, L.P.

By: /s/ Brian Zambie
Name: Brian Zambie, designated Representative of Grosvenor Capital Management, L.P.

Dated: Concord Management, LLC
By: /s/ Brant Behr
Name: Brant Behr, designated Representative of Concord Management, LLC

Dated: Baylor University
By: /s/ David Morehead
Name: David Morehead, designated Representative of Baylor University

Dated: Seattle Fund SPC
By: /s/ Stuart Robertson
Name: Stuart Robertson, designated Representative of Seattle Fund SPC

Dated: Man Solutions Limited
By: /s/ Michael Buerer
Name: Michael Buerer, designated Representative of Man Solutions Limited

Dated: Army and Air Force Exchange Service
By: /s/ James Jordan
Name: James Jordan, designated Representative of Army and Air Force Exchange Service

Dated: HIGHLAND CRUSADER OFFSHORE PARTNERS, L.P.

By: House Hanover, Its General Partner

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: HIGHLAND CRUSADER FUND, L.P.

By: House Hanover, Its General Partner

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: HIGHLAND CRUSADER FUND, LTD.

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: HIGHLAND CRUSADER FUND II, LTD.

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: HOUSE HANOVER, LLC

By: /s/ Mark S. DiSalvo

Name: Mark S. DiSalvo

Title: Authorized Signatory

Dated: ALVAREZ & MARSAL CRF MANAGEMENT, LLC

By: /s/ Steven Varner

Name: Steven Varner

Title: Managing Director

Dated: EAME
By: 
Name: Abali Hoilett
Title: Authorised Signatory of the Director MaplesFS Directors Limited

Dated: HOC
By: 
Name:
Title: Authorised Signatory of the Director MaplesFS Directors Limited

Dated: STRAND ADVISORS, INC.
By: _____
Name:
Title:

Dated: HIGHLAND SPECIAL OPPORTUNITIES HOLDING COMPANY
By: _____
Name:
Title:

Dated: HIGHLAND CDO OPPORTUNITY MASTER FUND, L.P.
By: _____
Name:
Title:

Dated: HIGHLAND FINANCIAL PARTNERS, L.P.
By: _____
Name:
Title:

Dated: HIGHLAND CREDIT STRATEGIES MASTER FUND, L.P.
By: _____
Name:
Title:


Dated: EAMES, LTD.

By: _____
Name:
Title:

Dated: HOCKNEY, LTD.

By: _____
Name:
Title:

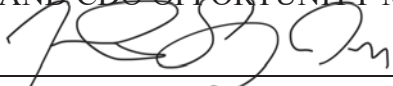
Dated: STRAND ADVISORS, INC.

By: 
Name: James P. Seery, Jr.
Title: Authorized Signatory

Dated: HIGHLAND SPECIAL OPPORTUNITIES HOLDING COMPANY

By: _____
Name:
Title:


Dated: HIGHLAND CDO OPPORTUNITY MASTER FUND, L.P.

By: 
Name: James P. Seery, Jr.
Title: Authorized Signatory

Dated: HIGHLAND FINANCIAL PARTNERS, L.P.

By: _____
Name:
Title:

Dated: HIGHLAND CREDIT STRATEGIES MASTER FUND, L.P.

By: 
Name: James P. Seery, Jr.
Title: Authorized Signatory

Dated:

HIGHLAND CREDIT OPPORTUNITIES CDO, L.P.

By: _____

Name:

Title:

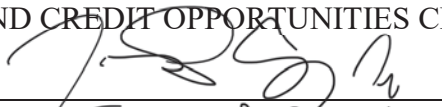

James P. Steery, Jr.
Authorized Signatory

EXHIBIT A

CORNERSTONE HEALTHCARE GROUP HOLDING, INC.

AMENDED & RESTATED STOCKHOLDERS' AGREEMENT

[•], 2020

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AMENDED & RESTATED STOCKHOLDERS' AGREEMENT

THIS AMENDED & RESTATED STOCKHOLDERS' AGREEMENT (the "**Agreement**") is made as of the [●] day of [●], 2020 by and among (i) Cornerstone Healthcare Group Holding, Inc., a Delaware corporation (the "**Company**"), (ii) certain holders of the Company's common stock (the "**Common Stock**") (each of which is referred to herein as a "**Stockholder**" and collectively as the "**Stockholders**"), and (iii) Highland Capital Management, L.P., a Delaware limited partnership ("**HCMLP**"). HCMLP (if and to the extent it is or becomes a Stockholder) and the Stockholders that are affiliates of HCMLP, including any investment funds controlled by or under common control with, or managed directly or indirectly by, HCMLP are collectively referred to herein as "**Highland Capital**" and are set forth on Schedule A, as it may be updated from time to time. Individual Stockholders that are part of the Highland Capital group of Stockholders are sometimes referred to as a "**Highland Capital Stockholders**." Any Stockholders other than Highland Capital Stockholders are collectively referred to herein as the "**Remaining Stockholders**" and are set forth on Schedule B, as it may be updated from time to time. All references in this Agreement to "**Crusader**" shall mean and include, as the case may be, (x) Highland Crusader Holding Corp., (y) any of its successors or assigns and (y) any purchaser or transferee of any Securities that at any time were held by Highland Crusader Holding Corp. (*i.e.*, any purchaser or transferee of Securities from Highland Crusader Holding Corp. and any subsequent purchasers or transferees of any such Securities).

RECITALS:

WHEREAS, the Company, the Stockholders and HCMLP are parties to that certain Stockholders' Agreement of the Company, dated as of March 24, 2010 (as the same may have been amended, modified or supplemented in accordance with its terms, the "**First Stockholders' Agreement**").

WHEREAS, the Stockholders hold shares of Common Stock of the Company, and the Stockholders, the Company and HCMLP desire to enter into this Agreement to (i) provide certain rights to, and impose certain restrictions on, the Stockholders and HCMLP with respect to the Common Stock held by them and (ii) amend and modify certain provisions in the First Stockholders' Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises and covenants set forth herein, and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

TRANSFER RESTRICTIONS; RIGHT OF FIRST REFUSAL

Section 1.1 Restrictions on Transfer.

(a) Generally. During the term of this Agreement, all of the Common Stock and any other equity securities (collectively, "**Securities**") now owned or hereafter acquired by

any Stockholder shall be subject to the terms and conditions of this Agreement. No transfer, whether voluntary or involuntary, of the Securities shall be valid unless it is made pursuant to the terms and conditions of this Agreement; and, accordingly, any proposed transfer not made in compliance with the requirements of this Agreement shall be null and void ab initio, shall not be recorded on the books of the Company or its transfer agent, and shall not be recognized by the Company.

(b) Permitted Transfers. Notwithstanding the foregoing, the first refusal rights and co-sale rights of the Company and Highland Capital, as set forth below in this Article I, shall not apply to (i) any transfer of Securities by a Stockholder to any such Stockholder's spouse, parents, siblings (by blood, marriage or adoption) or lineal descendants (by blood, marriage or adoption); (ii) any transfer of Securities by a Stockholder to a trust, partnership, corporation, limited liability company or other similar entity owned exclusively by such Stockholder and/or such Stockholder's spouse, parents, siblings (by blood, marriage or adoption) or lineal descendants (by blood, marriage or adoption) for the benefit of such Stockholder or such Stockholder's spouse, parents, siblings or lineal descendants; (iii) any transfer of Securities by a Stockholder, or upon a Stockholder's death to the executors, administrators, testamentary trustees, legatees or beneficiaries of such Stockholder; (iv) any transfer of Securities by a Stockholder to any person who controls, is controlled by or is under common control with such Stockholder (within the meaning of the Securities Act of 1933, as amended (the "**Securities Act**")); (v) any transfer of Securities by a Stockholder pursuant to a bona fide loan transaction which creates a mere security interest in the Securities; (vi) the Securities held Crusader; *provided, however*, that in each such case, each transferee, pledgee, donee, heir or distributee shall, as a condition precedent to such transfer, become a party to this Agreement by executing an Adoption Agreement substantially in the form attached as Annex A and shall have all of the rights and obligations set forth hereunder, and all interests in any trust, partnership, corporation, limited liability company or other similar entity to which any Securities are transferred shall themselves be deemed Securities and shall be subject to all of the provisions hereof. Such transferred Securities shall remain "**Securities**" hereunder, and such transferee shall be treated as a "**Stockholder**" for the purposes of this Agreement. Any purported transfers made in violation of this Section 1.1(b) shall be void.

(c) Company Repurchase or Public Offering. The provisions of this Agreement shall not apply to the sale of any Securities (i) to the public pursuant to a registration statement filed with, and declared effective by, the Securities and Exchange Commission (the "**SEC**") under the Securities Act or (ii) to the Company.

(d) Prohibited Transferees. Notwithstanding any other provision of this Agreement to the contrary, no Remaining Stockholder shall transfer any Target Shares to (a) any entity which, in the good faith and reasonable determination of the Company's Board of Directors, directly competes with the Company or (b) any customer, distributor or supplier of the Company, if the Company's Board of Directors should determine in good faith and reasonably that such transfer would result in such customer, distributor or supplier receiving information that would place the Company at a material competitive disadvantage with respect to such customer, distributor or supplier.

Section 1.2 Right of First Refusal.

(a) Grant of Right of First Refusal. Subject to the terms hereof, the Company and, to the extent such right is waived by the Company, HCMLP, on behalf of itself and Highland Capital (and, as provided below, each ROFR Participant) are each hereby granted a right of first refusal with respect to any proposed disposition of any Securities held by any Remaining Stockholder (except for a permitted transfer of the Securities under Section 1.1(b) hereof), in the following order of priority:

(i) The Company shall have the first right to purchase any Target Shares (as defined below). In the event the Company elects not to exercise first refusal rights with respect to all or any portion of such Target Shares, the Company agrees to waive such rights with respect to such portion of Target Shares in favor of Highland Capital's first refusal rights under this Agreement.

(ii) If the Company waives its first refusal rights pursuant to Section 1.2(a)(i), Highland Capital shall have the next right to purchase any remaining Target Shares. HCMLP, in its sole discretion, shall have the right to assign and apportion the rights of first refusal hereby granted among itself and investment funds comprising Highland Capital, which need not be Stockholders or parties to this Agreement at that time, in any proportion it deems suitable (the actual participants, including any individuals or entities assigned such rights, each being a "**Highland ROFR Participant**" and, together with the Company, each a "**ROFR Participant**"); *provided* that each such Highland ROFR Participant is an "**accredited investor**" within the meaning of Rule 501 of Regulation D of the Securities Act; and provided further that any Highland ROFR Participant that is not then a party to this Agreement shall be required to become a party to this Agreement by executing an Adoption Agreement in the form attached hereto as Exhibit A. In the event that HCMLP does not specify an allocation for ROFR Participants, then each Highland Capital Stockholder shall have the right to purchase up to that number of remaining Target Shares equal to the product of (A) the number of remaining Target Shares multiplied by (B) a fraction, (x) the numerator of which shall be the number of shares of Common Stock owned by such Highland Capital Stockholder (assuming full conversion and exercise of all convertible and exercisable securities into Common Stock held by such Highland Capital Stockholder) and (y) the denominator of which shall be the number of shares of Common Stock owned by all of the Highland Capital Stockholders (assuming full conversion and exercise of all convertible and exercisable securities into Common Stock).

(iii) In the event that HCMLP (or the Highland ROFR Participants as its designated assignee(s)) elects not to exercise first refusal rights with respect to all or any portion of such Target Shares, Highland Capital agrees to waive such rights with respect to such portion.

(b) Notice of Intended Disposition. In the event a Remaining Stockholder desires to accept a written, bona fide third-party offer for the transfer of any or all of the Securities held by such Remaining Stockholder (in such capacity such Remaining Stockholder shall be referred to as a "**Selling Stockholder**" and the shares subject to such offer to be referred to as the "**Target Shares**"), the Selling Stockholder shall promptly deliver to the Company and HCMLP written notice of the intended disposition ("**Disposition Notice**") and the basic terms and conditions thereof, including the identity of the proposed purchaser.

(c) Exercise of First Refusal Right. The Company shall, for a period of thirty (30) days following receipt of the Disposition Notice, have the right to purchase all or any portion of the Target Shares:

(i) The Company's right shall be exercisable by written notice (the "**Exercise Notice**") delivered to the Selling Stockholder and HCMLP prior to the expiration of the thirty (30) day exercise period. If such right is exercised with respect to all the Target Shares specified in the Disposition Notice, then the Company shall effect the purchase of such Target Shares, including payment of the purchase price, not more than five (5) business days after the delivery of the Exercise Notice. At such time, the Selling Stockholder shall deliver to the Company the certificates representing the Target Shares to be purchased, each certificate to be properly endorsed for transfer.

(ii) Alternatively, if the Company exercises such rights with respect to only a portion of the Target Shares specified in the Disposition Notice, the Company shall notify HCMLP of its intent to purchase only a portion of the Target Shares within the thirty (30) day exercise period above defined. The Company's purchase of such Target Shares shall be consummated at the time of HCMLP's exercise of its purchase rights in accordance with Section 1.2(e) hereof, if such rights are exercised. In the event HCMLP does not elect to purchase any of the remaining Target Shares, the Company's purchase of that portion of the Target Shares that it desires to purchase shall be consummated not more than five (5) business days after the date of expiration of HCMLP's first refusal right. The purchasing party under this Section 1.2 is referred to herein as the "**ROFR Purchaser.**"

(iii) Should the purchase price specified in the Disposition Notice be payable in property other than cash or evidences of indebtedness, the ROFR Purchaser shall have the right to pay the purchase price in the form of cash equal in amount to the value of such property. If the Selling Stockholder and the ROFR Purchaser cannot agree on such cash value within fifteen (15) days after receipt of the Disposition Notice (or, in the event HCMLP is the ROFR Purchaser, within fifteen (15) days after the Company's waiver of its first refusal rights hereunder, the valuation shall be determined by the Company's Board of Directors (the "**Board**") in its good faith discretion. The closing shall then be held on the later of (A) the fifth business day following the delivery of the Exercise Notice, or (B) the fifth business day after such cash valuation shall have been made.

(d) Non-Exercise of Right by the Company. In the event the Exercise Notice is not given to the Selling Stockholder and HCMLP within thirty (30) days following the date of the Company's receipt of the Disposition Notice, the Company shall be deemed to have waived its right of first refusal with respect to such proposed disposition.

(e) Exercise of Right by HCMLP. Subject to the rights of the Company, for a period ending on the earlier of (a) sixty (60) days following receipt of the Disposition Notice or (b) thirty (30) days following receipt of written notice of the Company's election either to waive its right of first refusal or to purchase only a portion of the Target Shares, HCMLP (and/or its designee(s) as provided in Section 1.2(a)(a)(ii)) shall have the right to purchase all, or any portion of the remaining balance after the Company's purchase, of the Target Shares, upon the terms and conditions specified in the Disposition Notice. The Highland ROFR Participants shall

exercise this right of first refusal in the same manner and subject to the same rights and conditions as the Company, as more specifically set forth in Section 1.2(c) above.

(f) Non-Exercise of Right by HCMLP: Subsequent Sales, Void Transfers. In the event an Exercise Notice with respect to all of the Target Shares is not given to the Selling Stockholder by the Company and/or HCMLP within sixty (60) days following the date of receipt of the Disposition Notice, the Selling Stockholder shall have a period of sixty (60) days thereafter in which to sell the portion of the Target Shares that the ROFR Participants have not elected to purchase upon terms and conditions (including the purchase price and the form of consideration therefor) no more favorable to the third-party transferee than those specified in the Disposition Notice; *provided, however*, that the Selling Stockholder must first offer the Target Shares for co-sale pursuant to Section 1.3 hereof. Any transfer in violation of this Section 1.2 shall be void. Such transferred Securities shall remain “*Securities*” hereunder, and such transferee shall be treated as a “*Stockholder*” for the purposes of this Agreement, in the capacity of Highland Capital or a Remaining Stockholder, as applicable. In the event the Selling Stockholder does not notify the Company or consummate the sale or disposition of the Target Shares within such sixty (60) day period, HCMLP’s and the Company’s first refusal rights shall continue to be applicable to any subsequent disposition of the Target Shares by the Selling Stockholder until such right lapses or terminates in accordance with Section 6.1 hereof.

(g) Violation of First Refusal Right. If any Selling Stockholder becomes obligated to sell any Target Shares to the Company or HCMLP (and/or its designee(s) as provided in Section 1.2(a)(ii)) under this Agreement and fails to deliver such Target Shares in accordance with the terms of this Agreement, the Company and/or HCMLP (and/or its designee(s) as provided in Section 1.2(a)(ii)) may, at its option, in addition to all other remedies it may have, send to such Selling Stockholder the purchase price for such Target Shares as is herein specified and transfer to the name of the Company or HCMLP (and/or its designee(s) as provided in Section 1.2(a)(ii)) (or request that the Company effect such transfer in the name of HCMLP (and/or its designee(s) as provided in Section 1.2(a)(ii)) on the Company’s books the certificate or certificates representing the Target Shares to be sold. Such Selling Stockholder shall also reimburse HCMLP and each ROFR Participant for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of the ROFR Participants’ rights under this Section 1.3.

(h) Application of Co-Sale Right. Notwithstanding anything to the contrary in this Section 1.2 Target Shares may be sold to a third party transferee (other than the Company or Highland Capital) if and only if the Selling Stockholder first complies with the co-sale procedures set forth in Section 1.3, and some or all of the Target Shares remain available for sale following the application of Section 1.3.

Section 1.3 Co-Sale Rights.

(a) Notice of Offer. The provisions of Section 1.2(b) requiring the Selling Stockholder to give notice of any intended transfer of the Securities are incorporated in this Section 1.3.

(b) Grant of Co-Sale Rights.

(i) If (i) any such proposed disposition of Target Shares is being made by the Selling Stockholder and (ii) the rights of first refusal of the Company and HCMLP have been waived or have lapsed, in full or in part with respect to such proposed disposition, the Co-Sale Participant (as defined herein) shall have the right, exercisable upon written notice to the Selling Stockholder within thirty (30) days after receipt of the Disposition Notice, to participate in such sale of the Target Shares on the same terms and conditions as those set forth in the Disposition Notice. As used herein, “*Co-Sale Participant*” shall mean (x) in the event Highland Capital holds or otherwise controls a majority of the issued and outstanding shares of Common Stock of the Company, the Highland Capital entities designated by HCMLP as provided below, or (y) in the event Highland Capital does not hold or otherwise control a majority of the issued and outstanding shares of Common Stock of the Company, each non-Selling Stockholder. To the extent any Co-Sale Participant exercises such right of participation, the number of shares of Target Shares that the Selling Stockholder may sell in the transaction shall be correspondingly reduced. The right of participation of the Co-Sale Participants shall be subject to the terms and conditions set forth in this Section 1.3.

(ii) Each Co-Sale Participant may sell all or any part of a number of shares of the capital stock of the Company held by such Co-Sale Participant equal to the product obtained by multiplying (i) the aggregate number of Target Shares covered by the Disposition Notice that neither the Company nor Highland Capital have elected to purchase pursuant to Section 1.2 by (ii) a fraction, the numerator of which is the number of shares of Common Stock of the Company at the time owned by such Co-Sale Participant (assuming for the purposes of this calculation that all shares held by Highland Capital are held by HCMLP) and the denominator of which is the combined number of shares of Common Stock of the Company at the time deemed owned by the Selling Stockholder and all of the Co-Sale Participants that desire to exercise their rights of co-sale. Notwithstanding the foregoing, HCMLP, in its sole discretion, shall have the right to assign and apportion the rights of first refusal hereby granted among itself and investment funds comprising Highland Capital, which need not be Stockholders or parties to this Agreement at that time, in any proportion it deems suitable; *provided* that each such Highland Capital Co-Sale Participant is an “*accredited investor*” within the meaning of Rule 501 of Regulation D of the Securities Act; and provided further that any Highland Capital Co-Sale Participant that is not then a party to this Agreement shall be required to become a party to this Agreement by executing an Adoption Agreement in the form attached hereto as Exhibit A.

(iii) Each Co-Sale Participant may effect its participation in the sale by delivering to the Selling Stockholder for transfer to the purchase offeror one or more certificates, properly endorsed for transfer, which represent the number of shares of Common Stock that it elects to sell pursuant to this Section 1.3(h).

(c) Payment of Proceeds. The stock certificates that the Co-Sale Participants deliver to the Selling Stockholder pursuant to Section 1.3(b) shall be transferred by the Selling Stockholder to the purchase offeror in consummation of the sale of the Common Stock pursuant to the terms and conditions specified in the notice to the Company and HCMLP (and, if applicable, the Remaining Stockholders) pursuant to Section 1.2(b), and the Selling Stockholder shall promptly thereafter remit to the Co-Sale Participants that portion of the sale proceeds to

which the Investors are entitled by reason of their participation in such sale. To the extent that any prospective purchaser or purchasers refuses to purchase shares or other securities from an Co-Sale Participant exercising its rights of co-sale hereunder, the Selling Stockholder shall not sell to such prospective purchaser or purchasers any Securities unless and until, simultaneously with such sale, the Selling Stockholder purchases such shares or other securities from such Co-Sale Participant for the same consideration and on the same terms and conditions as the proposed transfer described in the Disposition Notice.

(d) Non-exercise. The exercise or non-exercise of the rights of the Co-Sale Participants hereunder to participate in one or more sales of Common Stock made by the Selling Stockholder shall not adversely affect their rights to participate in subsequent Common Stock sales by any Selling Stockholder.

(e) Violation of Co-Sale Right. If any Selling Stockholder purports to sell any Target Shares in contravention of this Section 1.3 (a “*Prohibited Transfer*”), each Co-Sale Participant may, in addition to such remedies as may be available by law, in equity or hereunder, require Selling Stockholder to purchase from such Co-Sale Participant the type and number of Securities that such Co-Sale Participant would have been entitled to sell under Section 1.3(b)(ii) had the Prohibited Transfer been effected pursuant to and in compliance with the terms of Section 1.3. The sale will be made on the same terms and subject to the same conditions as would have applied had the Selling Stockholder not made the Prohibited Transfer, except that the sale (including, without limitation, the delivery of the purchase price) must be made within ninety (90) days after the Co-Sale Participant learns of the Prohibited Transfer. Such Selling Stockholder shall also reimburse HCMLP and each Co-Sale Participant for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of the Co-Sale Participants’ rights under this Section 1.3.

Section 1.4 Market Stand-Off Agreement

(a) In connection with any underwritten public offering by the Company of its equity securities pursuant to an effective registration statement filed under the Securities Act, including the first bona fide firm commitment underwritten public offering of the Company’s Common Stock registered under the Securities Act on Form S-1 or Form SB-2 (or any successor form designated by the SEC) (the “*Initial Public Offering*”), the Remaining Stockholders (each, an “*Owner*”) shall not (i) lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any securities of the Company, including (without limitation) shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock (whether now owned or hereafter acquired) or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any securities of the Company, including (without limitation) shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock (whether now owned or hereafter acquired), whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of securities, in cash or otherwise without the prior written consent of the Company or its underwriters; *provided* that all executive officers, directors and greater than 5% stockholders (including, if applicable, HCMLP

and Highland Capital) are subject to similar restrictions. Such restriction (the “*Market Stand-Off*”) shall be in effect for such period of time from and after the effective date of the final prospectus for the offering as may be requested by the Company or such underwriters. In no event, however, shall such period exceed one hundred eighty (180) days (the “*Lock-Up Period*”), and the Market Stand-Off shall in no event be applicable to any underwritten public offering effected more than two (2) years after the effective date of the Company’s initial public offering.

(b) Any new, substituted or additional securities which are by reason of any recapitalization or reorganization distributed with respect to the Common Stock to be registered shall be immediately subject to the Market Stand-Off, to the same extent the Common Stock is at such time covered by such provisions.

(c) In order to enforce the Market Stand-Off, the Company may impose stop-transfer instructions with respect to the Common Stock until the end of the applicable stand-off period.

ARTICLE II

RIGHTS OF FIRST OFFER

Section 2.1 Grant of Right of First Offer. Each time the Company proposes to offer (i) any shares of, or securities convertible into or exercisable for any shares of, any class of its capital stock (“*equity securities*”), or (ii) any debt securities (collectively, the “*First Offer Securities*”), the Company shall first offer to Highland Capital the right and opportunity (but not the obligation) to purchase the First Offer Securities proposed to be issued in such offering in accordance with the provisions of this Article IV. HCMLP, in its sole discretion, shall have the right to assign and apportion the rights of first refusal hereby granted among itself and investment funds comprising Highland Capital, which need not be parties to this Agreement at that time (the actual participants, including any individuals or entities assigned such rights, each being a “*Purchaser*”); *provided* that each such Purchaser is an “*accredited investor*” within the meaning of Rule 501 of Regulation D of the Securities Act; and *provided further* that any such Purchaser that is not then a party to this Agreement shall be required to become a party to this Agreement by executing an Adoption Agreement in the form attached hereto as Exhibit A.

Section 2.2 Procedure for Exercise. The Company shall deliver notice (the “*Offer Notice*”) to HCMLP stating (a) the number and description of the First Offer Securities to be offered in the applicable offering and (b) the price and terms, if any, upon which it proposes to offer such First Offer Securities. Within 30 days after giving of the Offer Notice, the Purchasers may elect to purchase, at the price and on the terms specified in the Offer Notice, such First Offer Securities, in the amounts designated by HCMLP. The Purchasers shall exercise the rights under this section by paying the purchase price for the First Offer Securities elected to be purchased in cash or by wire transfer of immediately available funds. As promptly as practicable on or after the purchase date, the Company shall issue and deliver to the Purchasers a certificate or certificates for the number of full shares or amount, whichever is applicable, of First Offer Securities.

Section 2.3 Excluded Issuances. The rights of first offer set forth in this section shall not be applicable to the following (collectively, the “*Excluded Issuances*”): (A) in the case of equity securities, (i) the issuance of shares of capital stock (or any cash-settled “phantom units” or similar equity-linked or equity-based incentive plans or agreement structures, the value of which is based on the Company’s Common Stock (collectively, “*phantom units*”)) of the Company issued or issuable solely for compensatory purposes, to directors, officers, employees or consultants of the Company, whether directly (as Common Stock, options or phantom units) or pursuant to an equity incentive plan or agreement or a restricted stock plan or agreement, in each case approved by the Board; (ii) the issuance of shares of capital stock of the Company in connection with stock splits, stock dividends, recapitalizations or the like; (iii) the issuance of shares of capital stock in connection with a bona fide business acquisition or license of technology of or by the Company, whether by license, merger, consolidation, sale of assets, sale or exchange of stock or otherwise that are not issued primarily for equity financing purposes, in each case as approved by the Board; (iv) the issuance of shares of capital stock of the Company in connection with corporate partnering transactions, business relationships and similar transactions that are not issued primarily for equity financing purposes, in each case as approved by the Board; or (v) the issuance of shares of capital stock to financial institutions in connection with bona fide Commercial Debt (as defined below) arrangements (including issuances, extensions, renewals, modifications and waivers), in each case approved by the Company’s Board of Directors; and (B) in the case of debt securities, shall not be deemed to include debt issued to NexBank, SSB and other banks, commercial finance lenders, insurance companies, leasing or equipment financing institutions or other lending institutions regularly engaged in the business of lending money (excluding venture capital, private equity, investment banking or similar institutions which sometimes engage in lending activities but which are primarily engaged in investments in equity securities), which is for money borrowed, or purchase or leasing of equipment in the case of lease or other equipment financing, whether or not secured, and in any such instance is not primarily for equity financing purposes (“*Commercial Debt*”), in each such case approved by the Board of Directors of the Company,

Section 2.4 Sale to Third Parties. The Company shall, after complying with its obligations under Section 2.1, be free at any time prior to 90 days after the date of the Offer Notice, to offer and sell to any third party or parties the remainder of such First Offer Securities proposed to be issued by the Company at a price and on payment terms no less favorable to the Company than those specified in the Offer Notice. However, if such third party sale or sales are not consummated within such 90-day period, or if the terms of any such proposed sale are modified in a manner more favorable to the proposed purchaser (whether with respect to price or any other term) than offered to HCMLP pursuant to Section 2.1, the Company shall not sell such First Offer Securities as shall not have been purchased within such period without again complying with Section 2.1 hereof.

ARTICLE III

REGISTRATION RIGHTS

Section 3.1 Definitions. For purposes of this Article III.

(a) “**Certificate of Incorporation**” shall mean the Company’s Certificate of Incorporation as in effect as of the date hereof and as amended and restated from time to time.

(b) “**Change in Control**” shall mean (A) the acquisition of the Company by means of any transaction or series of related transactions (including, without limitation, any stock purchase transaction, merger, consolidation or other form of reorganization in which outstanding shares of the Company are exchanged for securities or other consideration issued, or caused to be issued, by the acquiring entity or its subsidiary, but excluding (i) any transaction effected for the purpose of changing the Company’s jurisdiction of incorporation and (ii) the sale by the Company of shares of its capital stock to investors in bona fide equity financing transactions), unless securities representing more than fifty percent (50%) of the total combined voting power of the voting securities of the surviving or acquiring entity or its direct or indirect parent entity are immediately thereafter beneficially owned, directly or indirectly and in substantially the same proportion, by the Company’s stockholders of record as constituted immediately prior to such transaction or series of related transactions and (B) a sale of all or substantially all of the assets of the Company in a single transaction or series of related transactions. In no event shall any public offering of the Company’s securities be deemed to constitute a Change in Control.

(c) “**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended.

(d) “**Form S-3**” shall mean such form under the Securities Act as in effect on the date hereof or any registration forms under the Securities Act subsequently adopted by the SEC that permit inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC.

(e) “**Holder**” shall mean any person owning or having the right to acquire Registrable Securities or any assignee thereof in accordance with Section 3.13 hereof.

(f) The terms “**register**,” “**registered**” and “**registration**” refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the Securities Act, and the declaration or ordering of effectiveness of such registration statement or document.

(g) “**Registrable Securities**” shall mean, only with respect to equity securities held by Highland Capital, the Common Stock and any shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of such shares; excluding in all cases, however, any Registrable Securities sold by a Holder in a transaction in which his rights under this Article III are not assigned.

(h) The number of shares of “**Registrable Securities then outstanding**” shall be equal to the number of shares of Common Stock then issued and outstanding which are, and the number of shares of Common Stock then issuable pursuant to then exercisable or convertible securities which are, Registrable Securities.

(i) “**Rule 144**” means Rule 144 as promulgated by the SEC under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the SEC.

(j) “**Rule 145**” means Rule 145 as promulgated by the SEC under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the SEC.

Section 3.2 Request for Registration.

(a) At any time, HCMLP, on behalf of Highland Capital, may request that the Company effect a registration under the Securities Act of all or any part of the Registrable Securities held by Highland Capital (each, a “**Demand Registration**”), subject to the terms and conditions of this Agreement. Any request (a “**Registration Request**”) for a Demand Registration shall specify (A) the approximate number of shares of Registrable Securities requested to be registered and (B) the intended method of distribution of such shares. Within twenty (20) days of the receipt of the Registration Request, the Company will use its best efforts to effect as soon as practicable (and in any event within ninety (90) days of the date such request is given) the registration under the Securities Act requested and will include in such registration all shares of Registrable Securities that holders of Registrable Securities request the Company to include in such registration by written notice given to the Company within twenty (20) days after the Company’s sends such notice (subject to underwriter cut-backs as provided in this Agreement).

(b) Without the prior written consent of HCMLP, the Company will not include in any Demand Registration any securities other than (a) Registrable Securities, (b) shares of stock pursuant to Section 3.3 hereof, and (c) securities to be registered for offering and sale on behalf of the Company. If the managing underwriter(s) advise the Company in writing that in their opinion the number of shares of Registrable Securities and, if permitted hereunder, other securities in such offering, exceeds the number of shares of Registrable Securities and other securities, if any, which can be sold in an orderly manner in such offering within a price range acceptable to the holders of a majority of the shares of Registrable Securities held by Holders initially requesting registration, the Company will include in such registration, prior to the inclusion of any securities which are not shares of Registrable Securities, the number of shares of Registrable Securities requested to be included that in the opinion of such underwriters can be sold in an orderly manner within the price range acceptable to the Holders of a majority of the shares of Registrable Securities initially requesting registration, subject to the following order of priority: (A) first, the securities requested to be included therein by the Holders, pro rata among the holders thereof on the basis of the number of shares of Registrable Securities such holders requested to be included in such registration or apportioned among them in any other manner in which HCMLP determines to be appropriate in its sole discretion; (B) second, the securities requested to be included therein by the Company; and (C) third, among persons not contractually entitled to registration rights under this Agreement.

(c) If HCMLP indicates that the Holders on whose behalf it is initiating the Registration Request hereunder (the “**Initiating Holders**”) intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Section 3.2 and the Company shall include

such information in the written notice referred to in Section 3.2. The underwriter will be selected by HCMLP and shall be reasonably acceptable to the Board, which approval shall not be unreasonably withheld, conditioned or delayed. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 3.4(e)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting.

(d) Notwithstanding the foregoing, if the Company shall furnish to HCMLP a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors of the Company it would be seriously detrimental to the Company and its stockholders for such registration statement to be filed and it is, therefore, essential to defer the filing of such registration statement, the Company shall have the right to defer taking action with respect to such filing for a period of not more than one hundred twenty (120) days after receipt of the request of the Initiating Holders; *provided, however*, that the Company may not utilize this right more than once in any twelve (12) month period.

(e) In addition, the Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to this Section 3.2:

(i) after the Company has effected three (3) Demand Registrations pursuant to this Section 3.2 and such registrations have been declared or ordered effective;

(ii) during the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of filing of, and ending on a date one hundred eighty (180) days after the effective date of, a registration subject to Section 3.3 or Section 3.11 hereof, provided that the Company is actively employing its commercially reasonable efforts to cause such registration statement to become effective; *provided, however*, that the Company may not utilize this right more than once in any twelve-month period;

(iii) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 3.11 below; or

(iv) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act.

Section 3.3 Company Registration.

(a) If, but without any obligation to do so, the Company proposes to register (including for this purpose a registration initiated by the Company for itself or for the Holders or stockholders other than the Holders) any of its stock or other securities under the Securities Act in connection with the public offering of such securities solely for cash (other than a registration relating solely to employee benefit plans, or a registration relating solely to a SEC Rule 145 transaction, or a registration on any registration form which does not permit secondary sales or does not include substantially the same information as would be required to be included in a registration statement covering the Registrable Securities) the Company shall, at such time,

promptly give each Holder written notice of such registration. Upon the written request of HCMLP given within fifteen (15) days after delivery of such notice by the Company, the Company shall cause to be registered under the Securities Act all of the Registrable Securities that HCMLP has requested to be registered on behalf of Highland Capital.

(b) If a registration subject to Section 3.3 relates to an underwritten public offering of equity securities and the managing underwriters advise the Company that in their opinion the number of securities requested to be included in such registration exceeds the number that can be sold in an orderly manner in such offering within a price range acceptable to the Holders initially requesting such registration, the Company will include in such registration (i) first, the Registrable Securities requested to be included in such registration by Highland Capital, allocated pro rata among the holders thereof on the basis of the total number of shares of Registrable Securities such Holder requested to be included in such registration or apportioned among them in any other manner in which HCMLP determines to be appropriate in its sole discretion; (ii) second, the securities requested to be included therein by the Company if the Company has initiated the registration; and (iii) third, among persons not contractually entitled to registration rights under this Agreement. Notwithstanding the foregoing, the amount of Registrable Securities of Highland Capital included in the offering shall not be reduced below thirty percent (30%) of the total amount of securities included in such offering. In connection with any offering involving an underwriting of shares of the Company's capital stock, the Company shall not be required to include any of the Holders' securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters selected by it (or by other persons entitled to select the underwriters). All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 3.4(e)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting.

Section 3.4 Obligations of the Company. Whenever required under this Article III to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its commercially reasonable efforts to cause such registration statement to become effective within sixty (60) days of a request for registration pursuant to Section 3.2 and Section 3.11 and such registration statement shall remain effective until the earlier to occur of (i) one-hundred-eighty (180) days after the date such registration statement was declared effective or (ii) until the distribution contemplated in such registration statement has been completed; *provided, however*, that such one-hundred-eighty (180) day period shall be extended for a period of time equal to the period the Holder refrains from selling any securities included in such registration at the request of an underwriter of Common Stock (or other securities) of the Company.

(b) Prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement.

(c) Furnish to the Holders such numbers of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(d) Use its best efforts to register and qualify the securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions as shall be reasonably requested by the Holders; *provided* that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(e) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

(f) Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein of misleading in the light of the circumstances then existing.

(g) Cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange or nationally recognized quotation system on which similar securities issued by the Company are then listed.

(h) Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities not later than the effective date of such registration.

(i) Use its best efforts to cause to be furnished, at the request of at least a majority of the Holders participating in the registration, on the date that such Registrable Securities are delivered to the underwriters for sale, if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the date that the registration statement with respect to such securities becomes effective, (i) an opinion, dated such date, of the counsel representing the Company for purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters, if any, and (ii) a letter dated such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in connection with an underwritten public offering, addressed to the underwriters, if any.

(j) Make available for inspection by each Holder of Registrable Securities, any underwriter and any attorney, accountant, or other agent retained by such Holder or underwriter, all financial and other records, pertinent corporate documents and properties of the Company and cause the Company's officers, directors, and employees to supply all information

reasonably requested by such Holder, underwriter, attorney, accountant, or agent in connection with such registration statement.

Section 3.5 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Article III with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding such Holder, the Registrable Securities held by such Holder, and the intended method of disposition of such securities as shall be required by the Company or the managing underwriters, if any, to effect the registration of such Holder's Registrable Securities.

Section 3.6 Expenses of Demand Registration. All expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Section 3.2(a), including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of counsel for the selling Holders shall be borne by the Company, including, without limitation, all such expenses incurred with respect to a registration request subsequently withdrawn by the Holders, regardless of whether such withdrawal was a result of a material adverse change in the condition (financial or otherwise), business or prospects of the Company from that known to the Holders at the time of the request or otherwise.

Section 3.7 Expenses of Company Registration. All expenses, other than underwriting discounts and commissions relating to Registrable Securities, incurred in connection with registrations, filings or qualifications pursuant to Section 3.3 for each Holder, including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of counsel for the selling Holders shall be borne by the Company.

Section 3.8 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Article III.

Section 3.9 Indemnification. In the event any Registrable Securities are included in a registration statement under this Article III:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, the partners, members, officers, and directors of each Holder (including HCMLP), any underwriter (as defined in the Securities Act) for such Holder and each person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereto) arise out of or are based upon any of the following statements, omissions or violations (each, a "**Violation**"): (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act, the

Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law; and the Company will pay to each such Holder, underwriter or controlling person, as incurred, any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however*, that the indemnity agreement contained in this Section 3.9(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability, or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed), nor shall the Company be liable in any such case for any such loss, claim, damage, liability, or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished by any such Holder, underwriter or controlling person expressly for use in connection with such registration.

(b) To the extent permitted by law, each selling Holder will indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each person, if any, who controls the Company within the meaning of the Securities Act, any underwriter, any other Holder selling securities in such registration statement and any controlling person of any such underwriter or other Holder, against any losses, claims, damages, or liabilities (joint or several) to which any of the foregoing persons may become subject, under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder expressly for use in connection with such registration; and each such Holder will pay, as incurred, any legal or other expenses reasonably incurred by any person intended to be indemnified pursuant to this Section 3.9(b), in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however*, that the indemnity agreement contained in this Section 3.9(b), shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder (which consent shall not be unreasonably withheld, conditioned or delayed); *provided, however*, that in no event shall any indemnity under this Section 3.9(b) exceed the net proceeds from the offering received by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 3.9 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 3.9, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; *provided, however*, that an indemnified party (together with all other indemnified parties which may be represented without conflict by one counsel) shall have the right to retain separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if materially prejudicial to its ability

to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 3.9, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 3.9.

(d) If the indemnification provided for in this Section 3.9 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage, or expense referred to therein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other hand in connection with the statements or omissions that resulted in such loss, liability, claim, damage, or expense as well as any other relevant equitable considerations; *provided, however*, that in no event shall any contribution under this Section 3.9 exceed the net proceeds from the offering received by such Holder. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control as to any Investor that is a party thereto.

(f) The obligations of the Company and Holders under this Section 3.9 shall survive the completion of any offering of Registrable Securities in a registration statement under this Article III, and otherwise. No indemnifying party, in the defense of any such claim or litigation, shall, except with the consent of each other indemnified party, consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

Section 3.10 Reports Under Securities Exchange Act. With a view to making available to the Holders the benefits of Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144, at all times after the effective date of the first registration statement filed by the Company for the offering of its securities to the general public;

(b) take such action, including the voluntary registration of its Common Stock under Section 5.12 of the Exchange Act, as is necessary to enable the Holders to utilize Form S-3 for the sale of their Registrable Securities, such action to be taken as soon as practicable after the

end of the fiscal year in which the first registration statement filed by the Company for the offering of its securities to the general public is declared effective;

(c) file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act; and

(d) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request from such Holder (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144 (at any time after 90 days after the effective date of the first registration statement filed by the Company), the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC which permits the selling of any such securities without registration or pursuant to Form S-3.

Section 3.11 Form S-3 Registrations. In the event that the Company shall receive from HCMLP on behalf of the Holders of at least 10% of the Registrable Securities then outstanding a written request that the Company effect a registration on Form S-3, and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, the Company will:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Holders; and

(b) use its commercially reasonable efforts to, as soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holder's or Holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within fifteen (15) days after receipt of such written notice from the Company; *provided, however*, that the Company shall not be obligated to effect any such registration, qualification or compliance, pursuant to this Section 3.11:

(i) if Form S-3 is not available for such offering by the Holders;

(ii) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such Form S-3, propose to sell Registrable Securities at an aggregate price to the public (net of underwriting discounts and commissions) of less than \$500,000;

(iii) if the Company shall furnish to Holders requesting a registration statement pursuant to this Section 3.11 a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors it would be seriously detrimental to the Company and its stockholders for such registration statement to be filed and it is, therefore, essential to defer the filing of such registration statement, the Company shall have the right to defer taking action with respect to such filing for a period of not more than one-hundred-

twenty (20) days after receipt of the request of the Initiating Holders; *provided, however*, that the Company may not utilize this right more than once in any twelve (12) month period;

(iv) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance;

(v) if the Company has, within the twelve (12) month period preceding the date of such request, already effected one (1) registration on Form S-3 for the Holders pursuant to this Section 3.11; or

(vi) during the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of filing of, and ending on a date one-hundred-eighty (180) days after the effective date of, any registration statement pertaining to a public offering of securities for the Company's account; *provided, however*, that the Company is actively employing its commercially reasonable efforts to cause such registration statement to be effective.

(c) Subject to the foregoing, the Company shall file a registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable after receipt of the request or requests of the Holders. All expenses incurred in connection with a registration requested pursuant to this Section 3.11, including, without limitation, all registration, filing, qualification, printer's and accounting fees and the reasonable fees and disbursements of counsel for the selling Holder or Holders and counsel for the Company, shall be borne by the Company. Registrations effected pursuant to this Section 3.11 shall not be counted as demands for registration or registrations effected pursuant to Section 3.2 or Section 3.3, respectively.

(d) If the Holders initiating a registration pursuant to this Section 3.11 intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 3.11 and the Company shall include such information in the written notice referred to in Section 3.11(a). The underwriter will be selected by HCMLP and shall be reasonably acceptable to the Company, which approval shall not be unreasonably withheld or delayed. In such event, the right of any Holder to include such Holder's Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 3.4(e)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting. Notwithstanding any other provision of this Section 3.11, if the underwriter advises the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Holders of Registrable Securities which would otherwise be underwritten pursuant hereto, and the number of shares of Registrable Securities that may be included in the underwriting shall be allocated in the following order of priority: (A) first, the Registrable Securities requested to be included in such registration by the Holders, allocated pro

rata among the holders thereof on the basis of the total number of shares of Registrable Securities such Holder requested to be included in such registration or apportioned among them in any other manner in which HCMLP determines to be appropriate in its sole discretion; (B) second, the securities requested to be included therein by the Company; and (C) third, among persons not contractually entitled to registration rights under this Agreement.

Section 3.12 Expenses of Form 5-3 Registration. All expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Section 3.11, including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of counsel for the selling Holders shall be borne by the Company; including, without limitation, all such expenses incurred with respect to a registration request subsequently withdrawn by the Holders, regardless of whether such withdrawal was a result of a material adverse change in the condition (financial or otherwise), business or prospects of the Company from that known to the Holders at the time of the request or otherwise.

Section 3.13 Assignment of Registration Rights. Subject to the prior consent of HCMLP, the rights to cause the Company to register Registrable Securities pursuant to this Article III may be assigned (but only with all related obligations) by a Holder to a transferee or assignee of such securities that (i) is a subsidiary, parent, member, partner, limited partner, retired partner, grantor or shareholder of a Holder, and (ii) an affiliate of HCMLP, including any investment funds controlled by or under common control with, or managed directly or indirectly by, HCMLP, which will continue to qualify as Highland Capital after such transfer; *provided* that: (a) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned; (b) such transferee or assignee agrees in writing to be bound by and subject to the terms and conditions of this Agreement, including (without limitation) the provisions of Section 1.4 below, including the execution of an Adoption Agreement in the form attached hereto as Exhibit A; and (c) such assignment shall be effective only if immediately following such transfer the further disposition of such securities by the transferee or assignee is restricted under the Securities Act. For the purposes of determining the number of shares of Registrable Securities held by a transferee or assignee, the holdings of transferees and assignees of a partnership who are partners or retired partners of such partnership (including spouses and ancestors, lineal descendants and siblings of such partners or spouses who acquire Registrable Securities by gift, will or intestate succession) shall be aggregated together and with the partnership; *provided* that all assignees and transferees who would not qualify individually for assignment of registration rights shall have a single attorney-in-fact for the purpose of exercising any rights, receiving notices or taking any action under this Article III.

Section 3.14 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of HCMLP (which approval may be granted or withheld in its sole discretion), enter into any agreement with any holder or prospective holder of any securities of the Company (i) to include such securities in any registration filed under Section 3.2, unless under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that the inclusion of such holder's or prospective holder's securities will not reduce the amount of the

Registrable Securities of the Holders which is included or (ii) to make a demand registration that could result in such registration statement being declared effective prior to the dates set forth in Section 3.2 or within one-hundred-eighty (180) days of the effective date of any registration effected pursuant to Section 3.2.

ARTICLE IV

VOTING AGREEMENT; BOARD OF DIRECTORS; REQUIRED VOTE

Section 4.1 Board of Directors.

(a) Composition of Board of Directors. For so long as Highland Capital owns any shares of the Company's capital stock, each Stockholder agrees that in any election of directors of the Company, each Stockholder shall vote all shares of the Company capital stock entitled to vote in the election of directors that are owned or controlled by such Stockholder (or shall consent pursuant to an action by written consent of the holders of capital stock of the Company), including all shares that each Stockholder is entitled to vote under any voting trust, voting agreement, proxy or other arrangement (collectively, "*Stock*"), to elect a Board of Directors consisting of the directors designated by HCMLP in its sole discretion. In the absence of any designation HCMLP, the director previously designated by HCMLP and then serving shall be re-elected if still eligible to serve as provided herein. This Section 4.1(a) shall not apply to Crusader.

(b) Subsidiary Governing Bodies; Committees. Unless otherwise agreed to by HCMLP or the Board of Directors, the members of the Board of Directors, as the same shall be constituted from time to time, shall also constitute the board of directors or equivalent governing body of each subsidiary of the Company. HCMLP shall have the right but not the obligation to designate at least two members of the Board of Directors elected pursuant to this Section 4.1 to serve on any duly constituted committee of the boards of directors of the Company and any subsidiaries.

(c) Obligations of the Company. The Company shall use its best efforts and shall exercise all authority under applicable law to cause to be nominated for election and cause to be elected or appointed, as the case may be, as directors of the Company, a slate of directors consisting of individuals meeting the requirements of Section 4.1(a). The Company will not, by any voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all of the provisions of this Agreement and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of HCMLP hereunder against impairment. Each Stockholder hereby agrees to vote, cause to be voted or sign a written consent with respect to all of its shares in favor of a slate of directors consisting of individuals meeting the requirements of Section 4.1(a).

(d) Vacancies; Removal. In the event of any vacancy in the Board of Directors, each Stockholder agrees to vote all outstanding shares of Stock owned or controlled by such Stockholder and to use such Stockholder's best efforts to fill such vacancy so that the Board of Directors will be comprised of directors designated as provided in Section 4.1(a). Each

Stockholder agrees to vote all outstanding shares of Stock owned or controlled by such Stockholder for the removal of a director whenever (but only whenever) there shall be presented to the Board of Directors the written direction that such director be removed, signed by HCMLP. In such event, the Board of Directors shall solicit the vote of the Stockholders entitled to remove such director in order to effect such removal. This Section 4.1(d) shall not apply to Crusader.

Section 4.2 Required Vote.

(a) **Notice of Disposition Transaction.** In the event HCMLP has approved or rejected any (A) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation) unless the Company's stockholders of record as constituted immediately prior to such acquisition or sale will, immediately after such acquisition or sale (by virtue of securities issued as consideration for the Company's acquisition or sale or otherwise) hold at least 50% of the voting power of the surviving or acquiring entity; or (B) a sale of all or substantially all of the assets of the Company, including a sale of all or substantially all of the assets of the Company's subsidiaries, if such assets constitute substantially all of the assets of the Company and such subsidiaries taken as a whole (each, an "**Approved Sale**"), the Company shall give notice (the "**Sale Notice**") to the Stockholders stating that HCMLP has approved or rejected, as applicable, an Approved Sale. The Sale Notice also shall set forth the identity of the person or entity proposing to buy the Company, its assets or its capital stock (the "**Acquisition Offeror**") and shall summarize the basic terms of the proposed Approved Sale. Any Sale Notice may be rescinded by HCMLP by delivering written notice thereof to the Stockholders.

(b) **Obligations of Stockholders.** As soon as practicable after receipt of the Sale Notice, the Stockholders shall take all lawful action reasonably necessary and requested by the Company (i) in the event the Approved Sale was approved by HCMLP, to complete the Approved Sale, including without limitation (A) the voting of all capital stock of the Company held by the Stockholders in favor of the Approved Sale, (B) if so requested, the surrender to the Acquisition Offeror of certificates representing all capital stock and all instruments representing convertible securities of the Company held by the Stockholders, properly endorsed for transfer to the Acquisition Offeror against payment of the sale price for such capital stock or such convertible securities in the Approved Sale, and (C) the execution of all sale, liquidation and other agreements in the form reasonably requested (containing, among other things, reasonable and customary representations and warranties relating to the valid title to such capital stock free and clear of any liens, claims, encumbrances and restrictions of any kind (other than those arising hereunder) and such Stockholder's power, authority, and right to enter into and consummate such purchase or merger agreement without violating any other agreement); or (ii) in the event the Approved Sale was rejected by HCMLP, to reject the Approved Sale, including, without limitation, the voting of all capital stock of the Company held by the Stockholders against the Approved Sale. The Stockholders hereby agree, after having received a Sale Notice, not to exercise any dissenter's rights or other rights granted to minority stockholders under state law in connection with an Approved Sale, or otherwise take actions designed to or that reasonably would be expected to complicate, delay, reject or terminate the Approved Sale.

Section 4.3 Grant of Proxy. To ensure the performance of each Stockholder with respect to the agreements set forth in this Article IV, each Stockholder hereby appoints the

Chairman of the Board of Directors and the principal executive officer of the Company, or either of them from time to time, or their designees, as his, her or its true and lawful proxy and attorney-in-fact, with full power of substitution and resubstitution, to vote all. Stock owned or held by such Stockholder and to execute all appropriate instruments consistent with this Agreement, subject to the provisions of this Agreement, upon any matter presented to the stockholders of the Company, if and only if such Stockholder fails to vote all of such Stockholder's Stock or execute such other instruments in accordance with the provisions of this Agreement within five (5) days of the Company's or any other party's written request for such Stockholder's written consent or signature. The proxies and powers granted by each Stockholder pursuant to this Section 4.3 are coupled with an interest, are given to secure the performance of such Stockholder's commitments under this Agreement, and shall be irrevocable unless and until this Agreement terminates or expires pursuant to its terms. Such proxies shall survive the death, incompetence, disability, merger, reorganization, dissolution or winding up of such Stockholder. Each party hereto hereby revokes any and all previous proxies with respect to the Stock and shall not hereafter, unless and until this Agreement terminates or expires, purport to grant any other proxy or power of attorney with respect to any of the Stock, deposit any of the Stock into a voting trust or enter into any agreement (other than this Agreement), arrangement or understanding with any person, directly or indirectly, to vote, grant any proxy or give instructions with respect to the voting of any of the Stock, in each case, with respect to any of the matters set forth herein.

ARTICLE V

COVENANTS OF THE COMPANY

Section 5.1 Delivery of Financial Statements. The Company shall deliver the following information to HCMLP, to each Highland Capital Stockholder and to Crusader:

(a) as soon as reasonably practicable, but in any event within 90 days after the end of each fiscal year of the Company (which due date may be lengthened with respect to any fiscal year by approval of HCMLP), an audited consolidated income statement of the Company for such year, an audited consolidated balance sheet and statement of stockholders' equity of the Company as of the end of such fiscal year, and an audited consolidated statement of cash flows of the Company for such fiscal year, such audited year-end financial reports to be in reasonable detail, prepared in accordance with generally accepted accounting principles ("**GAAP**") consistently applied and setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail. Such audited financial statements shall be accompanied by a report and opinion thereon by independent public accountants of national standing selected by HCMLP.

(b) as soon as reasonably practicable, but in any event within thirty (30) days after the end of each fiscal quarter of the Company, an unaudited consolidated income statement and consolidated statement of cash flows of the Company for such fiscal quarter and an unaudited consolidated balance sheet of the Company as of the end of such fiscal quarter, prepared in accordance with GAAP, which shall each show a comparison to plan figures for such period and to the comparable period in the prior year prepared in accordance with GAAP with the exception that no notes need be attached to such statements and year end audit adjustments

need not have been made, together with a report from the Company's chief executive officer, and/or chief financial officer, summarizing the Company's consolidated financial condition and consolidated results of operation during such quarter.

(c) as soon as reasonably practicable, but in any event within twenty (20) days after the end of each calendar month, an unaudited consolidated income statement and consolidated statement of cash flows of the Company for such month and an unaudited consolidated balance sheet of the Company as of the end of such month and for the current fiscal year to date, including a comparison to plan figures for such period and to the comparable period in the prior year, prepared in accordance with GAAP consistently applied, with the exception that no notes need be attached to such statements and year end audit adjustments may not have been made, together with a report from the Company's chief executive officer, and/or chief financial officer, summarizing the Company's consolidated financial condition and consolidated results of operation during such month.

(d) an annual budget and operating plans for the Company at least thirty (30) days prior to the beginning of each fiscal year and (promptly after they are available) any subsequent substantive revisions thereto; and

(e) such relevant business and other information reasonably requested, including, without limitation, copies of relevant management reports, as HCMLP may request from time to time.

If, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

Section 5.2 Inspection. The Company will maintain true books and records of account in which full and correct entries will be made of all its business transactions pursuant to a system of accounting established and administered in accordance with GAAP consistently applied, and will set aside on its books all such proper accruals and reserves as shall be required under GAAP consistently applied. The Company shall permit HCMLP or its designee(s) to visit and inspect the Company's properties, to examine and audit its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times and during normal business hours as may be requested by HCMLP.

Section 5.3 Directors and Officers Insurance.

(a) The Company shall maintain, from financially sound and reputable insurers approved by HCMLP, directors' and officers' insurance with coverage decided in accordance with policies adopted by HCMLP.

(b) The Company will indemnify the Board of Directors to the broadest extent permitted by applicable law. The Company shall enter into written indemnification agreements (in a form reasonably acceptable to HCMLP) with the directors and executive officers of the Company.

(c) in the event of a Change in Control, proper provision shall be made so that the successors and assigns of the Company assume the obligations of the Company with respect to indemnification of members of the Board of Directors as in effect immediately prior to such transaction, whether in the Company's Bylaws, Certificate of Incorporation, or elsewhere, as the case may be, and, unless otherwise affirmatively determined by the Board of Directors, for the purchase of "*tail*" D&O insurance coverage.

Section 5.4 Additional Stockholders. As a condition to the Company's issuance of any shares of Common Stock, or options, warrants or rights to purchase or acquire Common Stock, to any person or entity, including the issuance of certificates representing shares of Common Stock upon a transfer following compliance with the terms of this Agreement, the Company shall, as a condition to such issuance, cause such person or entity to execute an Adoption Agreement in the form attached as Exhibit A hereto in the capacity of a Remaining Stockholder or a Highland Capital Stockholder, as appropriate, confirming that such person or entity is bound by, and subject to, all the terms and provisions of this Agreement applicable to a Remaining Stockholder or a Highland Capital Stockholder, whichever is applicable to such person or entity. The addition of Stockholders as parties to the Agreement in compliance with this provision shall not be deemed an amendment.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Term; Termination. This Agreement shall terminate upon the earliest to occur of (a) such time as the Stockholders shall no longer be the owner of any shares of capital stock of the Company; or (b) the date specified by agreement of the Company and HCMLP. Notwithstanding the foregoing, the following rights under this Agreement shall terminate as set forth herein:

(a) The rights of first refusal and co-sale set forth in Article I hereof shall terminate upon the earlier of (i) the closing of a bona fide firm commitment underwritten public offering of the Company's Common Stock registered under the Securities Act resulting in proceeds to the Company of at least \$50 million (a "*Qualified IPO*"), and (ii) a Change in Control (including in the case of an asset sale or similar transaction in which Stockholders continue to hold the Company's shares, the final distribution of proceeds to the Stockholders);

(b) The rights of first offer set forth in Article II hereof shall terminate upon the earlier of (i) a Qualified IPO, and (ii) a Change in Control (including in the case of an asset sale or similar transaction in which Stockholders continue to hold the Company's shares, the final distribution of proceeds to the Stockholders);

(c) The registration rights set forth in Article III hereof shall terminate with respect to any Holder upon the earlier of (i) a Change in Control, and (ii) the date upon which all Registrable Securities held by such Holder can be sold without restriction under Rule 144(k) under the Securities Act;

(d) The voting rights and obligations set forth in Article IV hereto shall terminate upon the earlier of (i) (A) in the case of Section 4.1 the Initial Public Offering, and (B) in the case of Section 4.2, a Qualified IPO, and (ii) a Change in Control; and, *provided* that the provisions of Section 4.2 will continue after the closing of any Approved Sale to the extent necessary to enforce the provisions of Section 4.2 with respect to such Approved Sale;

(e) The information and inspection rights set forth in Section 5.1 and Section 5.2 hereto shall terminate upon the earliest of (i) the Initial Public Offering, (ii) the date upon which the Company becomes subject to the periodic reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, and (iii) a Change in Control (including in the case of an asset sale or similar transaction in which Stockholders continue to hold the Company's shares, the final distribution of proceeds to the Stockholders).

Section 6.2 Legend. Each certificate representing the Common Stock of the Company shall be endorsed with substantially the following legend, in addition to any other legend required by law, the Company's organizational documents or agreement to which the Stockholder is subject:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF A CERTAIN STOCKHOLDERS' AGREEMENT, BY AND AMONG THE COMPANY AND CERTAIN HOLDERS OF THE COMMON STOCK OF THE COMPANY, INCLUDING SUBSTANTIAL RESTRICTIONS ON TRANSFER AND VOTING. A COPY OF SUCH AGREEMENT IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY. THE STOCKHOLDERS' AGREEMENT IS BINDING ON THE TRANSFEREES OF SUCH SHARES.”

Section 6.3 Successors and Assigns. In addition to any restriction on transfer that may be imposed by any other agreement by which the parties hereto may be bound, this Agreement shall be binding upon the parties hereto and their respective permitted transferees, heirs, executors, administrators, successors and assigns; *provided, however*, that the Company shall not effect any transfer of Common Stock subject to this Agreement on its books or issue a new certificate for such Common Stock unless the transferee of such Common Stock has executed and delivered an Adoption Agreement in the form attached hereto as Exhibit A. Upon compliance with all transfer and other restrictions set forth herein and the execution and delivery of an Adoption Agreement by the transferee, such transferee shall be deemed to be a party hereto as if such transferee's signature appeared on the signature pages hereto, in the capacity of Highland Capital or a Remaining Stockholder, as the case may be, whereupon the schedules of Stockholders shall be updated accordingly. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

Section 6.4 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Texas, without giving effect to conflicts of laws principles.

Section 6.5 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 6.6 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

Section 6.7 Notices.

(a) All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or by commercial delivery service, or mailed by registered or certified mail (return receipt requested) or sent via facsimile (with confirmation of receipt) to the parties at the address for each party set forth herein (or at such other address for a party as shall be specified by like notice):

(i) If to the Company:

Cornerstone Healthcare Group Holding, Inc.
13455 Noel Rd., Suite 1320
Dallas, TX 75240
Fax: [●]
Attn: [●]
Email: [●]

with a copy (which shall not constitute notice) to:

[●]
[●]
[●]
Fax: ([●]
Attn: [●]

(ii) If to HCMLP:

Highland Capital Management, L.P.
[●]
[●]
[●]
Fax: [●]
Attention: [●]
Email: [●]

(iii) If to a Highland Capital Stockholder, to the address set forth below such Highland Capital Stockholder's name on Schedule A hereto, with a copy (which shall not constitute notice) to HCMLP and the Company.

(iv) If to a Remaining Stockholder, at the address set forth below such Stockholder's name on Schedule B hereto, with a copy (which shall not constitute notice) to HCMLP and the Company.

(b) Notice given by personal delivery, courier service or mail shall be effective upon actual receipt. Notice given by facsimile shall be confirmed by appropriate answer back and shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All notices by facsimile shall be confirmed promptly after transmission in writing by certified mail or personal delivery. Any party may change any address to which notice is to be given to it by giving notice as provided above of such change of address.

(c) An electronic communication ("**Electronic Notice**") shall be deemed written notice for purposes of this Section 6.7 if sent with return receipt requested to the electronic mail address specified by the receiving party in a signed writing in a nonelectronic form. Electronic Notice shall be deemed received at the time the party sending Electronic Notice receives verification of receipt by the receiving party. Any party receiving Electronic Notice may request and shall be entitled to receive the notice on paper, in a nonelectronic form ("**Nonelectronic Notice**") which shall be sent to the requesting party within five (5) days of receipt of the written request for Nonelectronic Notice.

Section 6.8 DGCL Electronic Notice. Each party hereto generally consents to the delivery of any stockholder notice pursuant to the Delaware General Corporation Law (the "**DGCL**"), as amended or superseded from time to time, by electronic transmission (a "**DGCL Electronic Notice**") pursuant to Section 232 of the DGCL at the electronic mail address or the facsimile number set forth below such party's name on the Schedules hereto, as updated from time to time by notice to the Company, or as the books of the Company. To the extent that any DGCL Electronic Notice is returned or undeliverable for any reason, the foregoing consent shall be deemed to have been revoked until a new or corrected electronic mail address has been provided, and such attempted DGCL Electronic Notice shall be ineffective and deemed to not have been given. Each party hereto hereby agrees to promptly notify the Company of any change in such holder's electronic mail address, but failure to do so shall not affect the foregoing.

Section 6.9 Dispute Resolution.

(a) Arbitration. Notwithstanding anything contained in this Agreement to the contrary, and except for the equitable remedies provided in Section 6.9(b), in the event there is an unresolved legal dispute between the parties and/or any of their respective officers, directors, partners, employees, agents, affiliates or other representatives that involves legal rights or remedies arising from this Agreement, the parties agree to submit their dispute to binding arbitration under the authority of the Federal Arbitration Act; *provided, however*, that the Company or such applicable affiliate thereof may pursue a temporary restraining order and/or preliminary injunctive relief in connection with any confidentiality covenants or agreements binding on any of the parties, with related expedited discovery for the parties, in a court of law, and, thereafter, require arbitration of all issues of final relief. The Arbitration will be conducted by the American Arbitration Association, or another, mutually agreeable arbitration service. The arbitrator(s) shall be duly licensed to practice law in the State of Texas. The discovery process

shall be limited to the following: Each side shall be permitted no more than (i) two party depositions of six hours each. Each deposition is to be taken pursuant to the Texas Rules of Civil Procedure; (ii) one non-party deposition of six hours; (iii) twenty-five interrogatories; (iv) twenty-five requests for admission; (v) ten requests for production. In response, the producing party shall not be obligated to produce in excess of 5,000 total pages of documents. The total pages of documents shall include electronic documents; (vi) one request for disclosure pursuant to the Texas Rules of Civil Procedure. Any discovery not specifically provided for in this paragraph, whether to parties or non-parties, shall not be permitted. The arbitrator(s) shall be required to state in a written opinion all facts and conclusions of law relied upon to support any decision rendered. No arbitrator will have authority to render a decision that contains an outcome determinative error of state or federal law, or to fashion a cause of action or remedy not otherwise provided for under applicable state or federal law. Any dispute over whether the arbitrator(s) has failed to comply with the foregoing will be resolved by summary judgment in a court of law. In all other respects, the arbitration process will be conducted in accordance with the American Arbitration Association's dispute resolution rules or other mutually agreeable, arbitration service rules. The party initiating arbitration shall pay all arbitration costs and arbitrator's fees, subject to a final arbitration award on who should bear costs and fees. All proceedings shall be conducted in Dallas, Texas, or another mutually agreeable site. Each party shall bear its own attorneys fees, costs and expenses, including any costs of experts, witnesses and/or travel, subject to a final arbitration award on who should bear costs and fees. The duty to arbitrate described above shall survive the termination of this Agreement. Except as otherwise provided above, the parties hereby waive trial in a court of law or by jury. All other rights, remedies, statutes of limitation and defenses applicable to claims asserted in a court of law will apply in the arbitration.

(b) Equitable Relief. Each party hereto acknowledges and agrees that any breach of this Agreement would result in substantial harm to the other parties hereto for which monetary damages alone could not adequately compensate. Therefore, the parties hereto unconditionally and irrevocable agree that any non-breaching party hereto shall be entitled to seek protective orders, injunctive relief and other remedies available at law or in equity (including, without limitation, seeking specific performance or the rescission of purchases, sales and other transfers of Securities not made in strict compliance with this Agreement).

Section 6.10 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

Section 6.11 Amendments and Waivers. Subject to the last sentence of this Section 6.11, any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of (i) the Company, (ii) HCMLP, (iii) the Highland Capital Stockholders holding a majority of the Shares of the Company's Capital Stock held by Highland Capital, and (iv) at any such time as Highland Capital does not hold a majority of the Shares of the Company's capital stock that are subject to this Agreement, the Stockholders holding a majority of the shares of the Company's capital stock (on an as-converted to Common Stock basis) then held by all Stockholders that are subject to this Agreement, *provided* that the

consent of the Remaining Stockholders shall not be required for any amendment or waiver if such amendment or waiver either (A) is not directly applicable to the rights of the Remaining Stockholders hereunder or (B) does not materially and adversely affect the rights of the Remaining Stockholders in a manner that is disproportionate to the effect on the rights of the other parties hereto. Notwithstanding the foregoing, any provision hereof may be waived by the waiving party on such party's own behalf, without the consent of any other party. Any amendment or waiver effected in accordance with this Section 6.11 shall be binding upon each party to this Agreement and each future party to this Agreement. Notwithstanding the foregoing, neither (i) the addition of parties hereto as a condition to such person participating in a transaction described herein, nor (ii) the addition of a party hereto as a result of such party being or becoming a Highland Capital Stockholder, shall be deemed an amendment hereto, nor shall any update to the Schedules hereto from time to time to reflect the correct holdings of or other information with respect to the parties. No provision of this Agreement that is applicable expressly to Crusader, including Section 1.1(b)(vi), Section 1.1(b)(vii), Section 1.2(d), Section 4.1(a), Section 4.1(d), Section 5.1 and this Section 6.11, shall be amended in any respect that is applicable to Crusader without the prior written consent of Crusader.

Section 6.12 Aggregation of Stock. All shares of Common Stock or other Securities of the Company held or acquired by affiliated entities or persons (including, without limitation, the Common Stock or other Securities held by Highland Capital) may be aggregated together for the purpose of determining the availability of any rights under this Agreement. For the purposes of determining the availability of any rights under this Agreement, the holdings of transferees and assignees of an individual or a partnership who are spouses, ancestors, lineal descendants or siblings of such individual or partners or retired partners of such partnership or partnerships affiliated with such transferring or assigning partnership (including spouses and ancestors, lineal descendants and siblings of such partners or spouses who acquire Common Stock by gift, will or intestate succession) shall be aggregated together with the individual or partnership, as the case may be, for the purpose of exercising any rights or taking any action under this Agreement.

Section 6.13 Entire Agreement. This Agreement (including the Schedules hereto, if any) constitutes the full and entire understanding and agreement between the parties with regard to the subject matter hereof and thereof and supersedes any and all prior agreements relating to the subject matter hereof, including without limitation the First Stockholders' Agreement. The Company and each Stockholder acknowledges and agrees that neither the Company's Certificate of Incorporation or Bylaws shall be amended to include any transfer restrictions on the Company's Securities (it being understood that any and all applicable transfer restrictions, other than those arising under the securities laws generally, shall be as set forth herein).

Section 6.14 Stock Splits, Stock Dividends, etc. In the event of any stock split, stock dividend, capitalization, reorganization, or the like, any securities issued with respect to the shares of the Company's capital stock held by the Stockholders shall become subject to the terms of this Agreement.

Section 6.15 Cumulative Remedies. In addition to the rights and remedies stated in this Agreement, each party hereto shall have all those rights and remedies allowed by applicable laws. The rights and remedies of each party are cumulative and recourse to one or more right or remedy shall not constitute a waiver of the others.

Section 6.16 Rights of Stockholders. Each of HCMLP and each Stockholder, in its sole and absolute discretion, may exercise or refrain from exercising any rights or privileges that such Stockholder may have pursuant to this Agreement, the Company's Certificate of Incorporation or Bylaws, or at law or in equity; and neither HCMLP nor such Stockholder shall incur or be subject to any liability or obligation to the Company, any other party hereto, or any other person, by reason of exercising or refraining from exercising any such rights or privileges.

Section 6.17 Further Assurance. At any time or from time to time after the date hereof, the parties agree to cooperate with each other, and at the request of any other party, to execute and deliver any further instrument or documents and take all such further action as the other party may reasonably request in order to evidence or effectuate the consummation of the transactions contemplated hereby and to otherwise carry out the intent of the parties hereunder.

Section 6.18 Joint Product. This Agreement is the joint product of the Company and the other parties hereto and each provision hereof and thereof has been subject to the mutual consultation, negotiation and agreement of the Company and the other parties hereto and shall not be construed against any party hereto.

[Signature Pages Follow]

[Signature Page to Amended & Restated Stockholders' Agreement]

001347

IN WITNESS WHEREOF, the undersigned party has executed this counterpart signature page to the Amended & Restated Stockholders' Agreement as of the date first above written.

COMPANY:

**CORNERSTONE HEALTHCARE GROUP
HOLDING, INC.**

By: _____
Name: _____
Title: _____

HCMLP:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its general partner

By: _____
Name: _____
Title: _____

HIGHLAND CAPITAL STOCKHOLDERS:

Highland Credit Opportunities Holding Corporation

By: _____
Name: _____
Title: _____

Highland Credit Strategies Holding Corporation

By: _____
Name: _____
Title: _____

Highland Capital Management, L.P.

By: Strand Advisors, Inc., its general partner

By: _____
Name: _____
Title: _____

REMAINING STOCKHOLDERS:

Highland Crusader Holding Corp.

By: _____

Name: Mark S. DiSalvo

Title: Authorized Signatory

SCHEDULE A

**Highland Capital Stockholders
(as of [●], 2020)**

<u>Name/Address</u>	<u>Number of Shares</u>
Highland Credit Opportunities Holding Corporation 13455 Noel Road, Suite 800 Dallas, Texas 75240	4,029
Highland Credit Strategies Holding Corporation 13455 Noel Road, Suite 800 Dallas, Texas 75240	8,119
Highland Capital Management, L.P. 13455 Noel Road, Suite 800 Dallas, Texas 75240	1,022
Highland Restoration Capital Partners Master, L.P. 13455 Noel Road, Suite 1300 Dallas, Texas 75240	6,655
Highland Restoration Capital Partners, L.P. 13455 Noel Road, Suite 1300 Dallas, Texas 75240	5,445
Total	25,270

SCHEDULE B

**Remaining Stockholders
(as of [●], 2020)**

<u>Name/Address</u>	<u>Number of Shares</u>
Highland Crusader Holding Corp. 800 Turnpike Street, Suite 300 North Andover, MA 01845	14,830

EXHIBIT A

Adoption Agreement

This Adoption Agreement (“*Adoption Agreement*”) is executed by the undersigned (the “*Transferee*”) pursuant to the terms of that certain Amended & Restated Stockholders’ Agreement dated as of _____ (the “*Stockholders’ Agreement*”) by and among Cornerstone Healthcare Group Holding, Inc. (the “*Company*”), Highland Capital Management, L.P. and certain holders of its Common Stock. Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Stockholders’ Agreement.

1. Acknowledgement. Transferee acknowledges that Transferee is acquiring certain shares of the capital stock of the Company (the “*Stock*”), which shares are subject to the terms and conditions of the Stockholders’ Agreement.

2. Agreement. As partial consideration for such transfer, Transferee (i) agrees that the Stock acquired by Transferee shall be bound by and subject to the terms of the Stockholders’ Agreement, to the same extent and with the same rights and obligations as the person(s) from which such Stock is received and (ii) hereby agrees to become a party to the Stockholders’ Agreement with the same force and effect as if Transferee were originally a party thereto in the capacity of a [Highland Capital / Remaining] Stockholder.

3. Notice. Any notice required or permitted by the Stockholders’ Agreement shall be given to Transferee at the address listed beside Transferee’s signature below.

4. Joinder. The spouse of the undersigned Transferee, if applicable, executes this Adoption to acknowledge its fairness and that it is in such spouse’s best interests, and to bind to the terms of the Stockholders’ Agreement such spouse’s community interest, if any, in the Stock.

EXECUTED AND DATED this ____ day of _____, ____.

TRANSFeree:

Title: _____

Address: _____

Fax: _____

Spouse: (if applicable):

Name:

Acknowledged and accepted on _____, _____.

CORNERSTONE HEALTHCARE GROUP HOLDING, INC.

By: _____

Name: _____

Title: _____

EXHIBIT B

(To Be Filed under Seal)

EXHIBIT 2

Partial Final Award dated March 6, 2019

(To Be Filed under Seal)

EXHIBIT 3

Disposition of Application of Modification of Award dated March 14, 2019

(To Be Filed under Seal)

001357

EXHIBIT 4

Final Award dated April 29, 2019

(To Be Filed under Seal)

EXHIBIT 5

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
 (State)

Case number 19-34054

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** Redeemer Committee Highland Crusader Fund
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
See summary page	

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Contact phone _____ Contact phone _____
 Contact email TMascherin@jenner.com Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

See attached rider

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/03/2020
MM / DD / YYYY

/s/Terri L. Mascherin
 Signature

Print the name of the person who is completing and signing this claim:

Name Terri L. Mascherin
First name Middle name Last name

Title Partner

Company Jenner and Block LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (877) 573-3984 | International (310) 751-1829

Debtor: 19-34054 - Highland Capital Management, L.P. District: Northern District of Texas, Dallas Division		
Creditor: Redeemer Committee Highland Crusader Fund c/o Terri Mascherin, Esq. Jenner and Block 353 N. Clark Street Chicago, IL, 60654-3456 Phone: Phone 2: Fax: Email: TMascherin@jenner.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: See attached rider	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: See attached rider	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Terri L. Mascherin on 03-Apr-2020 1:51:56 p.m. Eastern Time Title: Partner Company: Jenner and Block LLP		

Your claim can be filed electronically on KCC's website at <https://epoc.kccllc.net/HCMLP>

ID: 24788159

PIN: wZvUm7fb

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the Northern District of Texas, Dallas Division

Case number 19-34054-sgj11

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1: Identify the Claim NameID: 13930498

1. **Who is the current creditor?** Redeemer Cmmttee Highland Crusader Fund
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?** **Where should notices to the creditor be sent?** **Where should payments to the creditor be sent? (if different)**

Redeemer Cmmttee Highland Crusader Fund
c/o Terri Mascherin, Esq.
Jenner & Block
353 N. Clark Street
Chicago, IL 60654-3456

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Name _____
 Number _____ Street _____
 City _____ State _____ ZIP Code _____
 Address _____
 Country _____
 Contact phone _____
 Contact email _____
 Contact phone _____
 Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.
See attached rider.

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? No Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650* earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)? No Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.


I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04 / 02 / 2020
MM / DD / YYYY



 Signature

Print the name of the person who is completing and signing this claim:

Name	Terri	L.	Mascherin
	First name	Middle name	Last name
Title	Partner		
Company	Jenner & Block LLP		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	353 N. Clark Street		
	Number	Street	
	Chicago	IL	60654-3456 USA
	City	State	ZIP Code Country
Contact phone	(312) 222-9350	Email	tmascherin@jenner.com

**RIDER TO THE PROOFS OF CLAIM OF THE REDEEMER
COMMITTEE OF THE HIGHLAND CRUSADER FUND**

This Rider is part of the proof of claim (the “**Proof of Claim**”) filed by the Redeemer Committee of the Highland Crusader Fund (the “**Redeemer Committee**”) against Highland Capital Management, L.P. (“**HCM**” or the “**Debtor**”).

On March 6, 2019, a panel of arbitrators issued a Partial Final Award (the “**March Award**”) in favor of the Redeemer Committee against HCM. On April 29, 2019, the panel issued a Final Award (the “**Final Award**,” and together with the March Award, the “**Arbitration Award**”) in favor of the Redeemer Committee against HCM.¹ The Arbitration Award is subject to the Federal Arbitration Act and The Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Redeemer Committee timely moved to confirm the Award in the Delaware Chancery Court. HCM moved for partial vacatur of the Arbitration Award in June 2019. The time period to move to vacate the Arbitration Award expired prior to the Petition Date (as defined below). All capitalized terms that are not defined herein have the meanings given to such terms in the Arbitration Award.

The Redeemer Committee files this Proof of Claim out of an abundance of caution. The Arbitration Award is an executory contract under section 365 of the Bankruptcy Code. HCM has not yet moved to assume or reject the contract. Accordingly, the deadline to file a proof of claim remains undetermined. By filing the Proof of Claim, the Redeemer Committee does not concede that the amounts awarded under the Arbitration Award are prepetition claims or that it is required to file a proof of claim to be entitled to the amounts described herein. The Redeemer Committee reserves all rights to amend or modify this Proof of Claim in any respect, including to assert other or additional claims, or for the purpose of fixing or liquidating any contingent or unliquidated claims. This Proof of Claim is without prejudice to any other rights the Redeemer Committee may have against the Debtor, its officers, employees, successors, or assigns.

This Proof of Claim includes the following components, and each is based on the Arbitration Award (together, the “**Claim**”):

1. **Damage Claim.** The Redeemer Committee asserts a liquidated claim for at least \$190,824,557 plus interest that is accruing beginning as of October 16, 2019, the date that HCM filed its bankruptcy case (the “**Petition Date**”). As set forth in the Final Award, the separate components of the Damage Claim are as follows, and the amounts set forth below are as of the Petition Date, including prepetition interest awarded under the Arbitration Award accrued to the Petition Date:
 - a. Deferred Fee Claim: \$43,105,395 (Final Award ¶ F.a.ii.1)
 - b. Distribution Fee Claim: \$22,922,608 (Final Award ¶ F.a.ii.2)

¹ Copies of the Arbitral Award have previously been provided the Debtor, the Official Committee of Unsecured Creditors, and the Office of the United States Trustee. The Redeemer Committee reserves the right to file a copy of the Arbitral Award with the Bankruptcy Court.

- c. Taking of Plan Claims: \$3,277,991 (Final Award ¶ F.a.v)
- d. CLO Trades Claim: \$685,195 (Final Award ¶ F.a.vi)
- e. Credit Suisse Claim: \$3,660,130 (Final Award ¶ F.a.vii)
- f. UBS Claim: \$2,600,968 (Final Award ¶ F.a.viii)
- g. Barclays Claim: \$30,811,366 (Final Award ¶ F.a.ix)
- h. Legal Fees, Costs, and Expenses: \$11,351,850 (Final Award ¶ F.a.xi)
- i. Administrative Fees: \$514,164 (Final Award ¶ F.a.xii)
- j. Cornerstone Award: \$71,894,891 (Final Award ¶ F.a.ix)

The Redeemer Committee also asserts an unliquidated claim for post-petition interest, attorneys' fees, costs, and other expenses that continue to accrue in connection with the Damage Claim.

2. **Cancellation of Limited Partnership Interests.** The Final Award provides, in relevant part, for the cancellation of the limited partnership interests in the Crusader Fund that are (i) held by HCM and Charitable DAF Fund, L.P. that are identified in RC411, and (ii) held by Eames, Ltd. (Final Award ¶¶ F.a.v and F.a.x). The Final Award provides for HCM to transfer, or take all necessary steps to cause the transfer of, such interests to the Redeemer Committee for the benefit of the Crusader Fund. The Final Award also provides that the Redeemer Committee has the independent right to cause the Crusader Fund to cancel such limited partnership interests. The Redeemer Committee reserves the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cancel such limited partnership interests in accordance with the Final Award. The Redeemer Committee asserts a claim in an unliquidated amount in the event all such limited partnership interests are not cancelled in accordance with the Final Award.
3. **Deferred Fee Account.** The Arbitration Award granted the Redeemer Committee's request for a declaratory judgment with respect to the immediate distribution of the Deferred Fee Account, which the Crusader Fund continues to hold, and ordered the payment of the funds in such account to the Redeemer Committee for disbursement to the Consenting Compulsory Redeemers (March Award ¶ VII.D; Final Award ¶ F.a). The Redeemer Committee reserves the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cause the distribution of the funds held in the Deferred Fee Account in accordance with the Arbitration Award. The Redeemer Committee asserts a claim in an unliquidated amount in the event all such funds are not distributed in accordance with the Arbitration Award.

The Redeemer Committee expressly reserves all of its procedural and substantive defenses and rights with respect to any claim that may be asserted against the Redeemer Committee by the Debtor, including any rights of setoff or recoupment.

The filing of this Claim shall not constitute: (i) an admission of liability by the Redeemer Committee to any party; (ii) a waiver or release of the Redeemer Committee's rights against any person, entity, or property; (iii) a consent by the Redeemer Committee to the jurisdiction of the Bankruptcy Court with respect to the subject matter of this Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases or otherwise involving the Redeemer Committee; (iv) a waiver of the right to move to withdraw the reference to the subject matter of this Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant; (v) a waiver of the right to have final orders entered only after *de novo* review by a United States Judge; (vi) its right to trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases; (vii) its right to arbitration under the Plan and Scheme; (viii) an election of remedies; or (ix) any other rights, claims, actions, defenses, setoffs, or recoupments to which it is or may be entitled under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly reserved.

EXHIBIT 6

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
 (State)

Case number 19-34054

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** See summary page
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**
 Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
<u>See summary page</u>	<u>Alvarez and Marsal CRF Management, LLC</u> <u>2029 Century Park East, Suite 2060</u> <u>Los Angeles, CA 90067, United States</u>

Contact phone 212-351-3969 Contact phone 310-975-2600
 Contact email mrosenthal@gibsondunn.com Contact email svarner@alvarezandmarsal.com

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _
7. How much is the claim?	\$ <u>see attached rider</u> . Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>See attached rider</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Identify the property: <u>See attached rider</u>



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? No Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)? No Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/06/2020
MM / DD / YYYY

/s/Michael A. Rosenthal
Signature

Print the name of the person who is completing and signing this claim:

Name Michael A. Rosenthal
First name Middle name Last name

Title Counsel to Alvarez and Marsal CRF Management, LLC, as Investment Manager

Company Gibson, Dunn and Crutcher LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (877) 573-3984 | International (310) 751-1829

Debtor: 19-34054 - Highland Capital Management, L.P. District: Northern District of Texas, Dallas Division		
Creditor: Highland Crusader Offshore Partners, L.P., et al., see rider for all names of creditors Michael A. Rosenthal, Gibson, Dunn and Crutcher LLP 200 Park Avenue New York, NY, 10166 United States Phone: 212-351-3969 Phone 2: Fax: Email: mrosenthal@gibsondunn.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Disbursement/Notice Parties: Alvarez and Marsal CRF Management, LLC 2029 Century Park East, Suite 2060 Los Angeles, CA, 90067 United States Phone: 310-975-2600 Phone 2: Fax: E-mail: svarner@alvarezandmarsal.com DISBURSEMENT ADDRESS		
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: See attached rider	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: see attached rider	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: Yes, See attached rider	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Michael A. Rosenthal on 06-Apr-2020 4:27:48 p.m. Eastern Time Title: Counsel to Alvarez and Marsal CRF Management, LLC, as Investment Manager Company: Gibson, Dunn and Crutcher LLP		

Fill in this information to identify the case:

Debtor 1 Highland Capital Management, L.P.

Debtor 2 (Spouse, if filing) _____

United States Bankruptcy Court for the: Northern District of Texas

Case number 19-34054-sgj11

Official Form 410 Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** Highland Crusader Offshore Partners, L.P., et al. (see rider for all names of creditors)
 Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent? <small>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</small>	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
	<p><u>Michael A. Rosenthal, Gibson, Dunn & Crutcher</u> Name</p> <p><u>200 Park Avenue</u> Number Street</p> <p><u>New York NY 10166</u> City State ZIP Code</p> <p>Contact phone <u>(212) 351-3969</u></p> <p>Contact email <u>mrosenthal@gibsondunn.com</u></p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>	<p><u>Alvarez & Marsal CRF Management, LLC</u> Name</p> <p><u>2029 Century Park East, Suite 2060</u> Number Street</p> <p><u>Los Angeles CA 90067</u> City State ZIP Code</p> <p>Contact phone <u>310-975-2600</u></p> <p>Contact email <u>SVarner@alvarezandmarsal.com</u></p>

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ See attached rider. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

See attached rider

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: See attached rider

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/06/2020
MM / DD / YYYY

Signature



Print the name of the person who is completing and signing this claim:

Name Michael A. Rosenthal
First name Middle name Last name

Title Counsel to Alvarez & Marsal CRF Management, LLC, as Investment Manager

Company Gibson, Dunn & Crutcher LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 200 Park Avenue
Number Street
New York NY 10166
City State ZIP Code

Contact phone (212) 351-3969 Email mrosenthal@gibsondunn.com

RIDER TO THE PROOF OF CLAIM OF THE CRUSADER FUNDS

Dated: April 6, 2020

This Rider is part of the proof of claim (the “**Proof of Claim**”) filed by Highland Crusader Offshore Partners, L.P. (“**Master Fund**”), Highland Crusader Fund, L.P. (“**Onshore Fund**”), Highland Crusader Fund, Ltd. (“**Offshore Fund I**”), and Highland Crusader Fund II, Ltd. (“**Offshore Fund II**” and together with the Master Fund, Onshore Fund, and Offshore Fund I, the “**Crusader Funds**”), by and through their authorized investment manager, Alvarez & Marsal CRF Management, LLC, against Highland Capital Management, L.P. (“**HCM**” or the “**Debtor**”).

The Crusader Funds’ claim against HCM contains two components (which partially overlap) and a number of sub-components, described below.

I. FORFEITURE OF COMPENSATION

At all relevant times prior to August 4, 2016, HCM served as the investment manager for each of the Crusader Funds, pursuant to the terms of (a) the Joint Plan of Distribution of the Crusader Funds (the “**Plan**”); (b) the Scheme of Arrangement (the “**Scheme**”); (c) the Amended and Restated Investment Management Agreement between the Master Fund and HCM, dated as of June 1, 2006 (the “**Master Fund IMA**”); (d) the Amended and Restated Investment Management Agreement between Onshore Fund and HCM, dated as of June 1, 2006 (the “**Onshore IMA**”); (e) the Amended and Restated Investment Management Agreement between Offshore Fund I and HCM, dated as of September 1, 2006 (the “**Offshore I IMA**”); and (f) the Third Amended and Restated Investment Management Agreement between Offshore Fund II and HCM, dated as of September 1, 2006 (the “**Offshore II IMA**” and together with the Master Fund IMA, the Onshore IMA, and the Offshore I IMA, the “**IMAs**”). The Plan, the Scheme, and the IMAs are collectively referred to as the “**Fund Documents**.”

Pursuant to the Fund Documents, HCM received compensation from the Crusader Funds in the form of Management Fees, Distribution Fees, and rights to Deferred Fees (each as defined in the Plan, the Scheme, or the IMAs). However, by no later than January 2012, HCM willfully and deliberately breached its obligations under the Fund Documents and breached its duty of loyalty to the Crusader Funds. At that time, HCM caused the Crusader Funds to borrow on margin from a trading account at Jefferies, and used the borrowings to inflate the amount of distributions being made, so as to inflate the amount of HCM’s Distribution Fee. Following that date, HCM committed other acts of disloyalty and further breached its obligations to the Crusader Funds, as described in the Arbitration Award (as defined below) and as shown by the evidence presented at the arbitration hearing that led to the Arbitration Award.

As a result, pursuant to the “faithless servant” doctrine, HCM forfeited any right it had to compensation for its services from the Crusader Funds, from the date of HCM’s first disloyal act onward. *See, e.g., Phansalkar v. Andersen Weinroth & Co., L.P.*, 344 F.3d 184, 188 (2d Cir. 2003) (“We hold that New York’s faithless servant doctrine requires Phansalkar to forfeit all compensation received after his first disloyal act.”). As a “faithless servant,” HCM is obligated to disgorge all compensation received from the Crusader Funds from the date of HCM’s first disloyal act, and has no right to any further compensation from the Crusader Funds. The Crusader Funds thus assert a claim in the following amounts:

1. Management Fees: \$8,233,337
2. Distribution Fees: \$15,250,109
3. Deferred Fees: \$32,313,000¹
4. Other Fees: In the amount of any other compensation, fees or distributions which may now or in the future otherwise be owing to HCM

The Crusader Funds also assert an unliquidated claim for pre- and post-petition interest, attorneys' fees, costs, and other expenses in connection with recovering such amounts. The Crusader Funds also assert a claim in an unliquidated amount for any Deferred Fees to which HCM might otherwise become entitled in the future under the Fund Documents.

The Crusader Funds currently hold, and may in the future hold, amounts that HCM may claim are, either now or in the future, due to it as a result of services provided by HCM to the Crusader Funds (the "Withheld Amounts"). As a result of the claims detailed in the Arbitration Award and this Proof of Claim (including without limitation, the faithless servant claim), the Crusader Funds dispute that any such amounts are due. However, to the extent that HCM prevails on an entitlement to a claim against the Crusader Funds, the Crusader Funds have a right of setoff against any such claim to the extent of its claims against HCM and such right of setoff is further secured by the Withheld Amounts.

II. ARBITRATION AWARD

This component of the claim is asserted in the alternative to the claim asserted by the Redeemer Committee of the Crusader Funds (the "**Redeemer Committee**"). The Crusader Funds would withdraw this portion of their claim if and to the extent that the Redeemer Committee's claim is allowed.

On March 6, 2019, a panel of arbitrators issued a Partial Final Award (the "**March Award**") in favor of the Redeemer Committee against HCM. On April 29, 2019, the panel issued a Final Award (the "**Final Award**," and together with the March Award, the "**Arbitration Award**") in favor of the Redeemer Committee against HCM.² Substantially all of the relief awarded by the panel was expressly noted to be "for the benefit of the Fund." Final Award ¶¶ F.a.iii-x. The Arbitration Award is subject to the Federal Arbitration Act and The Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Redeemer Committee timely moved to confirm the Award in the Delaware Chancery Court. HCM moved for partial vacatur of the Arbitration Award in June 2019. The time period to move to vacate the Arbitration Award expired prior to the Petition Date (as defined below). All capitalized terms that are not defined below have the meanings given to such terms in the Arbitration Award.

¹ This element of the claim for forfeiture of compensation overlaps in part with a component of the Arbitration Award claim, described in Section II below.

² Copies of the Arbitral Award have previously been provided the Debtor, the Official Committee of Unsecured Creditors, and the Office of the United States Trustee. The Crusader Funds reserve the right to file a copy of the Arbitral Award with the Bankruptcy Court.

The Arbitration Award component of the Crusader Funds' claim includes the following sub-components, and each is based on the Arbitration Award:

1. **Damage Claim.** The Crusader Funds assert a liquidated claim for at least \$190,824,557 plus interest that is accruing beginning as of October 16, 2019, the date that HCM filed its bankruptcy case (the "**Petition Date**"). As set forth in the Final Award, the separate components of the Damage Claim are as follows, and the amounts set forth below are as of the Petition Date, including prepetition interest awarded under the Arbitration Award accrued to the Petition Date:
 - a. Deferred Fee Claim: \$43,105,395 (Final Award ¶ F.a.ii.1)
 - b. Distribution Fee Claim: \$22,922,608 (Final Award ¶ F.a.ii.2)
 - c. Taking of Plan Claims: \$3,277,991 (Final Award ¶ F.a.v)
 - d. CLO Trades Claim: \$685,195 (Final Award ¶ F.a.vi)
 - e. Credit Suisse Claim: \$3,660,130 (Final Award ¶ F.a.vii)
 - f. UBS Claim: \$2,600,968 (Final Award ¶ F.a.viii)
 - g. Barclays Claim: \$30,811,366 (Final Award ¶ F.a.ix)
 - h. Legal Fees, Costs, and Expenses: \$11,351,850 (Final Award ¶ F.a.xi)
 - i. Administrative Fees: \$514,164 (Final Award ¶ F.a.xii)
 - j. Cornerstone Award: \$71,894,891 (Final Award ¶ F.a.ix)

The Crusader Funds also assert an unliquidated claim for post-petition interest, attorneys' fees, costs, and other expenses that continue to accrue in connection with the Damage Claim.

2. **Cancellation of Limited Partnership Interests.** The Final Award provides, in relevant part, for the cancellation of the limited partnership interests in the Crusader Funds that are (i) held by HCM and Charitable DAF Fund, L.P. that are identified in RC411, and (ii) held by Eames, Ltd. (Final Award ¶¶ F.a.v and F.a.x). The Final Award provides for HCM to transfer, or take all necessary steps to cause the transfer of, such interests to the Redeemer Committee for the benefit of the Crusader Funds. The Final Award also provides that the Redeemer Committee has the independent right to cause the Crusader Funds to cancel such limited partnership interests. The Crusader Funds reserve the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cancel such limited partnership interests in accordance with the Final Award. The Crusader Funds assert a claim in an unliquidated amount in the event all such limited partnership interests are not cancelled in accordance with the Final Award.
3. **Deferred Fee Account.** The Arbitration Award granted the Redeemer Committee's request for a declaratory judgment with respect to the immediate distribution of the

Deferred Fee Account, which the Crusader Funds continue to hold, and ordered the payment of the funds in such account to the Redeemer Committee for disbursement to the Consenting Compulsory Redeemers (March Award ¶ VII.D; Final Award ¶ F.a). The Crusader Funds reserve the right, to the extent required under applicable law, to seek relief from the Bankruptcy Court in order to cause the distribution of the funds held in the Deferred Fee Account in accordance with the Arbitration Award. The Crusader Funds assert a claim in an unliquidated amount in the event all such funds are not distributed in accordance with the Arbitration Award.

The Crusader Funds file this portion of the Proof of Claim out of an abundance of caution and in the event that the Arbitration Award is determined not to be an executory contract. However, the Arbitration Award may be an executory contract under section 365 of the Bankruptcy Code. HCM has not yet moved to assume or reject such contract. The Crusader Funds reserve the right to dispute whether the Arbitration Award is an executory contract and, if so, HCM's decision to reject such contract. If the Arbitration Award is determined to be an executory contract and is allowed to be rejected by the Bankruptcy Court, the Crusader Funds reserve the right to file an amended proof of claim by the bar date for the filing of rejection damages claims; if no such amended proof of claim is filed, then, this claim shall serve as the Crusader Funds' rejection damages claim. By filing this Proof of Claim, the Crusader Funds do not concede that the Arbitration Award is an executory contract, that amounts awarded under the Arbitration Award are prepetition claims or that they are now required to file a proof of claim to be entitled to the amounts described in the Arbitration Award.

* * *

The Crusader Funds reserve all rights to amend or modify this Proof of Claim in any respect, including, without limitation, to assert other or additional claims, or for the purpose of fixing or liquidating any contingent or unliquidated claims. This Proof of Claim is without prejudice to any other rights the Crusader Funds may have against the Debtor, its officers, employees, successors, or assigns.

The Crusader Funds expressly reserve all of their procedural and substantive defenses and rights with respect to any claim that may be asserted against the Crusader Funds by the Debtor, including, without limitation, any rights of setoff or recoupment.

The filing of this Proof of Claim shall not constitute: (i) an admission of liability by the Crusader Funds to any party; (ii) a waiver or release of the Crusader Funds' rights against any person, entity, or property; (iii) a consent by the Crusader Funds to the jurisdiction of the Bankruptcy Court with respect to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases or otherwise involving the Crusader Funds; (iv) a waiver or release of the right to move to withdraw the reference to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant; (v) a waiver or release of the right to seek to have the Bankruptcy Court abstain with respect to the subject matter of this Proof of Claim, any objection or other proceeding commenced with respect thereto, or any other proceeding commenced in these cases against or otherwise involving any claimant, (vi) a waiver or release of the right to have final

orders entered only after *de novo* review by a United States District Judge; (vii) a waiver or release of their right to trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases; (viii) a consent to a jury trial in any proceeding so triable in these cases or any case, controversy or proceeding related to these cases, (ix) a waiver or release of their right to arbitration under the Plan and Scheme; (x) an election of remedies or limitation of rights or remedies; or (xi) a waiver or release of any other rights, claims, actions, defenses, setoffs, or recoupments to which they are or may be entitled under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly reserved.

**SEALED document regarding:
Exhibit B--Cornerstone
Monetization Schedule per
court order filed by Debtor
Highland Capital Management,
L.P. (RE: related
document(s)[1125](#) Order on
motion to seal).**

1127

**SEALED document regarding:
Exhibit 2 - Partial Final Award
dated March 6, 2019 per court
order filed by Debtor Highland
Capital Management, L.P. (RE:
related document(s)[1125](#) Order
on motion to seal).**

1128

**SEALED document regarding:
Exhibit 3--Disposition of
Application of Modification of
Award dated March 14, 2019
per court order filed by Debtor
Highland Capital Management,
L.P. (RE: related
document(s) [1125](#) Order on
motion to seal).**

1129

**SEALED document regarding:
Exhibit 4--Final Award dated
April 29, 2019 per court
order filed by Debtor Highland
Capital Management, L.P. (RE:
related document(s)[1125](#) Order
on motion to seal).**

1130

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

-----X
In re : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

**OBJECTION TO THE DEBTOR’S MOTION FOR ENTRY OF AN ORDER
APPROVING SETTLEMENTS WITH (A) THE REDEEMER COMMITTEE OF THE
HIGHLAND CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND
CRUSADER FUNDS (CLAIM NO. 81)**

¹ The Debtor’s last four digits of its taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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UBS Securities LLC and UBS AG, London Branch (together, “UBS”), by and through their undersigned counsel, hereby submit this objection (the “Objection”) to the *Debtor’s Motion for Entry of an Order Approving Settlements with (A) The Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) The Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* [Dkt. No. 1089] (the “Motion”) regarding the proofs of claim filed by the Redeemer Committee of the Highland Crusader Fund (“Redeemer” and the “Redeemer Claim”) and the Highland Crusader Funds (“Crusader”² and the “Crusader Claim”). In support of this Objection, UBS respectfully states as follows:

PRELIMINARY STATEMENT

Under Federal Rule of Bankruptcy Procedure 9019, a bankruptcy court must make an independent judgment of the merits of any settlement proposed by a debtor to ensure that it is fair, equitable, and in the best interest of the debtor’s estate. While settlements are certainly desirable in the context of a bankruptcy case—especially in this case, which is particularly complex and fraught with allegations of fraud and bad faith—a settlement should not be approved just because the debtor says it should be. Here, Highland Capital Management, L.P. (the “Debtor”) acknowledges that it made “substantial compromises” to strike a deal with Crusader and Redeemer, but contends that those compromises benefit the Debtor’s estate. A closer review of the Proposed Settlement (as defined below), however, belies such assertion and evidences that the Debtor has not met its burden of showing this is a fair and equitable compromise within the range of reasonable alternatives.

² Crusader refers to a collection of four funds: Highland Crusader Offshore Partners, L.P., Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland Crusader Fund II, Ltd.

The Debtor’s “modest reductions” to the Redeemer Claim do not account for the significant risk that a substantial portion of the Redeemer Claim (based on an Arbitration Award) is subject to vacatur. More importantly, under the Proposed Settlement, the Debtor would forfeit rights to over \$30 million in cash and valuable assets potentially worth more than \$80 million, permitting a significant windfall to Redeemer to the detriment of the Debtor’s estate and other creditors.

The Redeemer Claim is based on an Arbitration Award that required the Debtor, *inter alia*, to pay \$118,929,666 (including prejudgment interest and attorneys’ fees) in damages and to pay Redeemer \$71,894,891 (including prejudgment interest) *in exchange* for all of Crusader’s shares in Cornerstone. Pursuant to that same Arbitration Award, the Debtor also retained the right to receive \$32,313,000 in Deferred Fees upon Crusader’s liquidation. As shown below, after accounting for those reciprocal obligations to the Debtor and depending on the true value of the Cornerstone shares to be tendered (which is disputed), the actual value of the Arbitration Award to Redeemer is between \$74,911,557 and \$128,011,557.³

Under the Proposed Settlement, however, Redeemer stands to gain far more because the Debtor has inexplicably agreed to release its rights to Crusader’s Cornerstone shares and the Deferred Fees (with a combined value that could be as much as \$115,913,000)—providing a substantial windfall to Redeemer. The Debtor has failed to provide sufficient information to permit this Court to meaningfully evaluate the true value of the Proposed Settlement, including the fair value of the Cornerstone shares, which it must do in order for this Court to have the information it needs to approve the Proposed Settlement. Depending on the valuation of the Cornerstone shares,

³ The potential range of value attributable to the Cornerstone shares is significant because, according to the Debtor’s liquidation analysis, the Debtor expects to have only \$195 million total in value to distribute, and only \$161 million to distribute to general unsecured creditors under its proposed plan. See *Liquidation Analysis* [Dkt. No. 1173-1]; *First Amended Plan of Reorganization of Highland Capital Management, L.P.* [Dkt. No. 1079].

the value of the Proposed Settlement to Redeemer may be as much as \$253,609,610—which substantially exceeds the face amount of the Redeemer Claim.

In the meantime, other general unsecured creditors of the Debtor will receive a much lower percentage recovery than they would if those assets were instead transferred to the Debtor’s estate, as required by the Arbitration Award, and evenly distributed among the Debtor’s creditors. The Proposed Settlement is only in the best interests of Redeemer and, as such, it should be rejected.

BACKGROUND⁴

A. Procedural Background

1. The Debtor is an investment management firm that manages a variety of hedge funds, structured investment vehicles, and mutual funds.

2. On October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for chapter 11 relief in the Bankruptcy Court for the District of Delaware. Pursuant to an order dated December 4, 2019, the Debtor’s bankruptcy proceedings were transferred to this Court under the above-captioned case number (the “Chapter 11 Case”).

3. On March 2, 2020, this Court entered the *Order (I) Establishing Bar Dates for Filing Claims and (II) Approving the Form and Manner of Notice Thereof* [Dkt. No. 488]. Pursuant to that order, the general bar date for proofs of claim was set for April 8, 2020.

4. On April 3, 2020, Redeemer filed Proof of Claim No. 72 against the Debtor’s estate, claiming (1) \$190,824,557 (its so-called “Damages Award”); (2) “post-petition interest, attorneys’ fees, costs and other expenses;” (3) the right to distribute funds held in the “Deferred Fee Account” to Crusader investors; and (4) the transfer or cancellation of certain limited partner interests in Crusader held by the Debtor, the Charitable DAF Fund, L.P. (“DAF”), and Eames, Ltd. (“Eames”).

⁴ Additional background information is described in the UBS Objection (defined below) [Dkt. No. 996] and incorporated herein by reference.

Redeemer Claim Rider at 1-2. The Redeemer Claim is predicated upon an “Arbitration Award,” which it characterizes as an “executory contract.” Redeemer Claim Rider at 1.

5. As discussed in further detail below, the Arbitration Award is actually made up of three awards: (i) a March 6, 2019 “Partial Final Award,” (ii) a March 14, 2019 “Modification Award,” and (iii) an April 29, 2019 “Final Award”—all issued by the same panel of arbitrators in the same arbitration proceeding, but none of which has ever been confirmed or otherwise entered as a final judgment by any court of competent jurisdiction. *See* Mot. ¶ 15.

6. On April 6, 2020, Crusader filed Proof of Claim No. 81 against the Debtor’s estate alleging the Debtor had been a faithless fiduciary and claiming (1) \$55,796,446, including the disgorgement of \$8,233,337 in “Management Fees” and \$15,250,109 in “Distribution Fees” previously paid to the Debtor for its service as investment manager, as well as forfeiture of the Debtor’s right to \$32,313,000 in “Deferred Fees” and any “Other Fees” that “may now or in the future otherwise be owing to [the Debtor]”; (2) any other Deferred Fees the Debtor “might otherwise become entitled in the future”; (3) “pre- and post-petition interest, attorneys’ fees, costs and other expenses”; and (4) a right of setoff against any claim that the Debtor may assert against it for “Withheld Amounts.” Crusader Claim Rider at 1-2;⁵ Crusader Claim at 2; *see* Mot. ¶ 22.

7. On August 26, 2020, UBS filed its *Objection to the Proof of Claim Filed by Redeemer Committee of the Highland Crusader Fund* [Dkt. No. 996] (the “UBS Objection”). UBS objected to the Redeemer Claim’s: (1) characterization of the Arbitration Award as an executory contract, (2) inclusion of relief in the so-called Damages Award that was impermissibly awarded for the first time in the Final Award and thus is subject to vacatur, and (3) failure to take into

⁵ The Crusader Claim also asserts an alternative claim based on the Arbitration Award in the event any part of the Redeemer Claim is not allowed. Mot. ¶ 21 n.5; Crusader Claim Rider at 2.

account the value of assets that Redeemer is obligated to transfer to the Debtor's estate under the same Arbitration Award. UBS Obj. at 3, 19.

8. On September 23, 2020, the Debtor filed the Motion and the *Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* [Dkt. No. 1090] (the "Morris Declaration"). The Motion seeks approval of a stipulation, attached as Exhibit 1 to the Morris Declaration [Dkt. No. 1090-1] (the "Proposed Settlement").

B. The Arbitration Award

9. From Crusader's inception through August 2016, the Debtor served as Crusader's investment manager. Mot. ¶¶ 10, 13; Crusader Claim Rider at 1. In late 2008, Crusader was put into wind-down. Mot. ¶ 11. That process was governed by a *Joint Plan of Distribution of the Crusader Funds* and the *Scheme of Arrangement Between the Crusader Funds and their Scheme Creditors* (the "Plan and Scheme"),⁶ both adopted in 2011 in an attempt to permit redeeming investors to be able to realize additional monetary benefits that would not ordinarily be realized through general liquidation. Plan & Scheme at 14-16; *see also* Mot. ¶ 12. This arrangement was not intended to be a risk-free choice. Plan & Scheme at 16 ("There is a risk that the Company Redeemers' Distributions may be less than their Redemption Amounts . . .").

10. Pursuant to the Plan and Scheme, payment of certain fees owed to the Debtor as compensation for its role as investment manager was deferred (the "Deferred Fees") until

⁶ The Plan and Scheme, filed under seal at Docket No. 953, is Exhibit 22 to *Redeemer Committee of the Highland Crusader Funds and the Highland Crusader Funds' Objection to the Proofs of Claim of UBS AG, London Branch and UBS Securities LLC and Joinder in the Debtor's Objection* [Dkt. No. 933]. UBS notes, however, that Redeemer and Crusader filed only a pre-execution draft. *E.g.* Plan & Scheme at 38 (reflecting track change revisions).

liquidation of Crusader's assets was complete. Mot. ¶¶ 10, 13, 25; Plan & Scheme at 37, 73-74. Unlike certain "Distribution Fees" that the Debtor would not be entitled to receive if removed for cause, Plan & Scheme at 48, 73, the "Deferred Fees are payable under *all* circumstances to HCMLP," except for the "Deferred Fee Account." Plan & Scheme at 20 (emphasis added). For those amounts in the Deferred Fee Account, the Debtor had the right to "potentially receive" those amounts if it met specified distribution targets on time. Plan & Scheme at 15, 57-58, 82-83.

11. Redeemer was entrusted with oversight of this process from the start and at all times had the power to terminate the Debtor as Crusader's investment manager upon thirty days' notice, with or without cause. Plan and Scheme at 15-16, 18, 51, 76. Redeemer chose not to exert this power until July 5, 2016, when Redeemer provided the Debtor with notice it was being terminated as investment manager and an arbitration proceeding was being initiated against it. Mot. ¶¶ 13-14. Pursuant to this notice, the Debtor's investment management services ended effective August 4, 2016. Mot. ¶ 13. The Debtor was replaced by Alvarez & Marsal CRT Management, LLC ("Alvarez"). PFA at 4. Concurrently with its arbitration demand, Redeemer initiated an action in the Delaware Chancery Court (the "Delaware Court") for a status quo order, *id.*, where the Debtor added Alvarez as a third party defendant. *See* Mot. ¶ 14 n.3; Ex. A, Debtor Brief to Vacate (REDEEMER_001635).

12. In the arbitration proceeding, Redeemer asserted breach of contract and breach of fiduciary duty claims against the Debtor seeking disgorgement and other relief based on the Debtor's service as Crusader's investment manager. Mot. ¶ 14; PFA at 3-4. Redeemer chose not to allege the Debtor had been a faithless servant. PFA at 8, 49. After "the record was declared closed" on December 12, 2018, *id.* at 7, the panel of arbitrators (the "Panel") rendered a "Partial Final Award" (or "PFA") [Dkt. No. 1128] on March 6, 2019. The Partial Final Award was a 56-

page single-spaced reasoned decision unanimously signed by all three members of the Panel. *See generally id.* Four aspects of the Partial Final Award are of particular relevance here:

- **Deferred Fees.** The Panel found that the Debtor was entitled to receive the Deferred Fees but had paid them to itself prematurely. PFA at 3; Mot. ¶ 25. Because Redeemer was deprived of the use of these funds during the improper period, the Panel awarded damages of \$41,320,655, consisting of \$32,313,000 in damages and \$9,007,655⁷ in prejudgment interest. Importantly, the Panel made no finding that the Debtor’s misconduct required it to give up its right to receive the Deferred Fees at the time set forth in the Plan and Scheme. PFA at 14.⁸ Under the Plan & Scheme, the Deferred Fees are required to be paid to the Debtor’s estate upon Crusader’s complete liquidation, which as UBS understands, is largely tied to the disposition of the Cornerstone shares. *See* PFA at 51.
- **Cornerstone Award.** The Panel also found that the Debtor had breached its fiduciary duty by failing to liquidate Crusader’s shares in Cornerstone Healthcare Group (“Cornerstone”). Mot. ¶ 30. The Arbitration Award ordered the Debtor to pay Redeemer \$48,070,407 (at the fair market value of \$3,241.41 per share, calculated as of the date of the Debtor’s interference, PFA at 42, 48), plus \$21,169,417 in prejudgment interest, ***and ordered Redeemer to transfer Crusader’s Cornerstone shares to the Debtor.*** PFA at 55; *id.* at 48 (“[We] order that the [Redeemer] Committee simultaneously cause the Crusader Fund to surrender its interest in Cornerstone to Highland.”). Neither Redeemer nor Crusader was provided any future interest in Cornerstone or right to seek retention of the Cornerstone shares in lieu of damages. *See* PFA at 48, 55; Mot. ¶ 31.
- **Barclays LP Interests.** The Panel ruled on one of Redeemer’s core allegations—namely, that the Debtor improperly transferred certain limited partner interests in Crusader that belonged to Barclays (the “Barclays LP Interests”) from Barclays to Eames, *see, e.g.*, PFA at 8, 15, 20-22, 54—and determined that such transfers were a breach of the parties’ agreement. PFA at 21-22, 54. But the Panel did not treat the Debtor’s transfers of the Barclays LP Interests as an independent wrongdoing. Instead, the Partial Final Award only discussed the transfer of the Barclays LP Interests in the context of one of Redeemer’s broader sets of claims, known as its “Distribution Fee Claim.” *See* PFA at 15; *id.* at 20 (analyzing “Payments to Barclays and Eames ***as Distributions***”). After determining that the Debtor’s transfers of the Barclays LP Interests were “improper,” PFA at 20-22, 54, the Panel awarded Redeemer a “total” of \$14,452,275 in aggregate damages (plus prejudgment interest) to cover all of the conduct relating to its Distribution Fee Claim—a claim that specifically included the Debtor’s transfers of the Barclays LP Interests. *E.g.*, PFA at 22.

⁷ The Partial Final Award included interest “through the date of this Partial Final Award.” *Id.* at 14. The Final Award’s extension of the prejudgment accumulation period added an additional \$1,784,740 in interest bringing the total Deferred Fees award to \$43,105,395.

⁸ In fact, the Debtor asserted a counterclaim against Redeemer to recover the Deferred Fees prior to complete liquidation of Crusader, because it alleged Alvarez should have completed the Crusader liquidation by December 2017, triggering the payment to the Debtor. PFA at 8, 49. The Panel, however, found that Alvarez was not responsible for any delay. *Id.* at 51. Notably, Redeemer did not raise a faithless servant defense. PFA at 8, 49.

- **Prejudgment Interest.** As noted, the Panel awarded Redeemer prejudgment interest on its damages awards, *see e.g.*, PFA at 48, 54-55, accruing from the time of the alleged breaches through March 6, 2019, the date of the Partial Final Award. *E.g.*, PFA at 54 (awarding “statutory interest of 9%, calculated on a simple basis, from the dates of taking in January and April 2016 through the date of this Partial Final Award”).

13. On March 7, 2019, one day after the Panel issued the Partial Final Award, Redeemer requested a modification to the Partial Final Award. FA at 1. On March 11, 2019, *before* the Debtor was required to respond to the request, the Panel responded by email that it “[would] be modifying” the Partial Final Award. Ex. A, Debtor Brief to Vacate at 5 (REDEEMER_001644). Next, on March 14, 2019, and also *before* the Debtor was required to respond to the request, the Panel unilaterally issued a “Disposition of Application for Modification of Award” [Dkt. No. 1129] (the “Modification Award” or “MA”). This email and the Modification Award added a completely new category of damages as a result of the Debtor’s “improper” transfer of the Barclays LP Interests—damages above and beyond the \$14.5 million already ordered for such conduct in the Partial Final Award. FA at 11.

14. The Modification Award purported to be issued pursuant to Rule 50 of the AAA Commercial Rules, which allows a panel to “correct any clerical, typographical, or computational errors in the award.” MA at 1; FA at 1 n.1. If Rule 50 had been properly applied, the Debtor would have had “10 calendar days to respond to [Redeemer’s] request” in writing. AAA R-50. Instead, the Modification Award was issued on March 14, 2019—just 7 days after Redeemer’s request and 3 days short of the timeframe for objections provided for in Rule 50. FA at 1; Mot. ¶

15. The Debtor timely opposed Redeemer’s modification request on March 17, 2019, and requested that the Panel withdraw its Modification Award and refrain from any further modification of the Partial Final Award. FA at 2(a). That did not happen.

15. Almost three weeks later, on April 5, 2019 (ten days *after* Rule 50’s allotted period for modification requests closed), Redeemer submitted yet another formal written request for

modification of the Partial Final Award, this time asking the Panel to “award further damages in connection with the Barclays claim” and to “award prejudgment interest through” an extended date. FA at 2. Again, the Debtor opposed Redeemer’s request for such “further damages” on the basis that such post-award modifications are improper under the AAA Rules and governing law. FA at 2-3.

16. On April 29, 2019,⁹ the Panel issued a new “Final Award.” In that Final Award, the Panel “re-adopt[ed] all prior findings and conclusions” but “specifically modified” portions of the earlier Partial Final Award. FA at 1. The “modifications” included several substantive changes to the Partial Final Award by: (1) awarding Redeemer an additional \$21,768,743 in damages due to the transfers of the Barclays LP Interests, as well as \$9,042,623 in prejudgment interest on these new damages; (2) granting injunctive relief that required the Debtor to return improperly taken limited partner interests held by Eames to Redeemer; and (3) extending the time for prejudgment interest to accrue until “the date paid or the entry of a final judgment.” FA at 2, 14-15. Put differently, the relief awarded through the Arbitration Award included:

Award	Modification	Amount Added	Total Liquidated Damages Award
Partial Final Award	n/a	n/a	\$154,314,614 ¹⁰
Modification Award	New damages related to Barclays LP Interests	\$30,811,366	\$183,923,629
Final Award	Incorporated MA; added injunctive relief (Eames); extended accrual period for prejudgment interest	\$6,900,921 & injunctive relief	\$190,824,557

⁹ Two of three arbitrators signed on April 29, the third arbitrator signed on May 9, 2019. FA at 19-22; *see* Mot. ¶ 15 (referencing a May 9, 2019 Final Award).

¹⁰ The Partial Final Award explicitly found liability and awarded damages for the “Sale of CLO interests” and “Credit Suisse claims,” as well as for attorneys’ fees, but directed the parties to confer regarding the appropriate amount of damages or, if no agreement could be reached, the Panel would determine the amount. PFA at 55-56. These amounts was properly clarified in the Final Award and such amounts are included in this calculation.

17. After the Final Award was issued, and prior to the Petition Date, Redeemer moved in the Delaware Court to have that award confirmed as a judgment. Mot. ¶ 17. Also prior to the Petition Date, the Debtor moved the Delaware Court to vacate at least \$36.5 million of the Arbitration Award on the grounds that the Panel was without authority to modify its Partial Final Award (“Motion to Vacate”). Mot. ¶ 17. Both motions were scheduled to be heard by the Delaware Court on the day that the Debtor filed its Chapter 11 Case.¹¹ The Delaware proceedings are currently stayed by section 362 of the Bankruptcy Code.

C. The Proposed Settlement

18. On July 8, 2020, the Debtor informed this Court that it and Redeemer had reached a settlement in principle as to Redeemer’s claim and would file their agreement when certain language was finalized. Dkt. 817, July 8, 2020 Hr’g Tr.

19. Subsequently, and in parallel with the Debtor and Redeemer finalizing their agreement, the Debtor, Redeemer and other parties in interest, including UBS, proceeded with mediation. A brief summary of the terms of the Redeemer settlement was announced to the mediation parties on the first day of mediation, August 27, 2020.

20. Then, on September 23, 2010, the Debtor filed its Motion and Proposed Settlement. As the Debtor has acknowledged to this Court in the past, a settlement of the Redeemer Claim based on the Arbitration Award is not as simple or straightforward as with a typical arbitration award. Dkt. No. 817, July 8, 2020 Hr’g Tr. This is, in part, because of the obligations imposed by the Arbitration Award and Plan and Scheme that require Redeemer to transfer meaningful assets

¹¹ The Motion emphasizes that Redeemer “timely moved” to confirm the Arbitration Award, but implies that the timeliness of the Debtor’s Motion to Vacate is in question. *See* Mot. ¶¶ 17-18 n.4 (citing the three-month statutory time limit under the Federal Arbitration Act, 9 U.S.C. § 12). The Debtor’s Motion to Vacate was filed on June 6, 2019, less than six weeks after the Final Award was issued, and the Debtor’s brief was filed on July 10, 2019, pursuant to an ordered briefing schedule. *See, e.g.*, Ex. A, Debtor Brief to Vacate at 9 (REDEEMER_001648).

to the Debtor's estate—*i.e.*, the Deferred Fees and Cornerstone shares. Under the Proposed Settlement, Redeemer is relieved of those obligations, and the Debtor forfeits the estate's rights to those assets. Among other terms (in addition to an exchange of releases and discontinuation of litigation), under the Proposed Settlement:

- The Redeemer Claim would be allowed in the amount of \$137,696,610. Mot. ¶ 23; Proposed Settlement ¶ 1.
- The Crusader Claim would be allowed in the amount of \$50,000. Mot. ¶ 23; Proposed Settlement ¶ 2.
- Limited partner interests in Crusader held by (i) the Debtor, (ii) the DAF, and (iii) Eames, would be cancelled, and the “Reserved Distributions” associated with those interests would be forfeited. Mot. ¶ 23; Proposed Settlement ¶ 3.
- The Debtor would forfeit its right to collect approximately \$32,313,000 of Deferred Fees owed to it upon Crusader's completed liquidation. Mot. ¶ 23; Proposed Settlement ¶ 5.
- The Debtor would forfeit its right to the Cornerstone shares held by Crusader, in exchange for an approximately \$30,500,000 reduction of the Redeemer Claim “to account for the perceived fair market value of those shares,” and Redeemer and the Debtor would work together to monetize Cornerstone. Mot. ¶ 23; Proposed Settlement ¶ 8.

21. These terms purport to reflect two self-styled “substantial compromise[s]” and “other modest reductions” that were applied to reduce the Redeemer Claim from an asserted claim of \$190,824,557 to an allowed claim of \$137,808,302. *See* Mot. ¶ 28, 32; *id.* ¶¶ 27, 31. *First*, Redeemer “agreed to reduce the Damages Award by \$21,592,000” (which the Debtor claims is “approximately two-thirds of the Deferred Fees” component of the so-called Damages Award), and in exchange, the Debtor agreed to forfeit its right to collect approximately \$32,313,000 in Deferred Fees upon liquidation of Crusader. Mot. ¶ 27. *Second*, Redeemer agreed to reduce the \$71,894,891 component of the so-called Damages Award “by approximately \$30,500,000 to account for the perceived fair market value of” the Cornerstone shares, and in exchange, the Debtor agreed to forfeit its right to receive the Cornerstone shares. Mot. ¶ 31. Under the Proposed Settlement, Crusader would retain its minority interest in Cornerstone, and Redeemer would

cooperate with the Debtor to liquidate the Cornerstone investment as a whole. *Id.* Finally, the parties agreed to further reduce the so-called Damages Award by approximately \$924,255, for unspecified reasons.¹² Mot. ¶ 32.

D. The Cornerstone Shares

22. The Cornerstone shares undoubtedly provide value to whatever entity holds them. Crusader currently owns 14,830 shares (or approximately 40%) of Cornerstone. The Motion states that the “perceived fair market value” of those shares is \$30.5 million (\$2,059/share), Mot. ¶ 31, but does not provide any details whatsoever regarding whose “perception” this is, what it is based on, when it was calculated, or what information was taken into account to arrive at this valuation. And the Motion does not provide any evidence at all to support such a valuation.

23. On October 12, 2020, REDACTED

Alvarez, Crusader’s investment manager and a released “Crusader Additional Party” under the Proposed Settlement. *See* Proposed Settlement at 1, ¶ 11; Ex. B, 6/4/20 Presentation to Redeemer at 16 (REDEEMER_004899).

24. The true value of Crusader’s Cornerstone shares (and thus, the true value of the rights forfeited by the Debtor) is much higher than the \$30.5 million assigned to them for

¹² Under the Proposed Settlement, the Debtor and Eames would also forfeit all rights to “certain other monies as to which the Debtor and Eames may have had an interest in the absence of this Stipulation.” Proposed Settlement ¶ 5. But it is unclear what those “other monies” are. Other aspects of the Proposed Settlement are equally unclear, for example, the Debtor’s forfeiture of its interest in any “Reserved Distributions,” future “Distribution Fees,” and “Management Fees” that may relate either to “the Cancelled LP Interests or any other role or position of the Debtor with respect to the Crusader Funds (including but not limited to its role as the investment manager for the Crusader Funds until August 4, 2016).” *Id.* These unquantified fees that may be “currently accrued or that might have accrued in the future,” *id.*, appear to provide value for the Crusader Claim that could be well beyond the \$50,000 allowed claim. *See* Crusader Claim Rider at 2 (asserting a claim “[i]n the amount of any other compensation, fees or distributions which may now or in the future otherwise be owing to [the Debtor]”). These items were not sought in the Redeemer Claim. *See generally* Redeemer Claim Rider.

settlement purposes.

REDACTED

25.

REDACTED

26. UBS's own financial advisor in this matter, Grant Thornton LLP, has evaluated both the Crusader Houlihan June Valuation and the Debtor Houlihan Valuation. *See* Declaration of W. Kevin Moentmann (the "GT Declaration").

REDACTED

¹³ It is unclear whether the same individuals at Houlihan prepared both analyses.

REDACTED

27. Moreover, based on the data made available to it and using the methodology described in the Declaration submitted herewith, Grant Thornton has calculated that the actual value of Cornerstone as of June 30, 2020 might be as high as between \$116 million and \$208.7 million, in the aggregate. GT Decl. ¶ 5. That means that Crusader’s 14,830 shares might have an actual value of between \$46.5 million and \$83.6 million, *id.* ¶ 6 (the “Grant Thornton Estimation”)—*i.e.*, nearly triple the \$30.5 million fair market value calculated REDACTED, which apparently forms the basis for the Debtor’s decision to forfeit its rights to Crusader’s 14,830 shares in exchange for a \$30.5 million reduction of the Redeemer Claim in the Proposed Settlement.

ARGUMENT

28. The Debtor’s own evaluation of the deal it struck cannot and should not “be automatically accepted as reasonable” by this Court. *In re Alfonso*, 2019 Bankr. LEXIS 2816, at *9 (Bankr. W.D. Tex. Sept. 6, 2019). Instead, when evaluating a claim compromise under Bankruptcy Rule 9019, the Court must be apprised “of the relevant facts and law so that it can make an informed and intelligent decision on whether the settlement proposed is fair and equitable to parties in interest.” *Id.* at *8; *In re Rogumore*, 393 B.R. 474, 480 (Bankr. S.D. Tex. 2008) (applying the court’s independent judgment and finding the proposed compromise must be denied).

29. Such information is necessary because, while settlements are desirable, the Court cannot “simply accept the [settling parties’] word that the settlement is reasonable,” nor can it “merely ‘rubber-stamp’” a settlement. *In re Shankman*, 2010 Bankr. LEXIS 619, at *9 (Bankr. S.D. Tex. Mar. 2, 2010) (Isgur, M.). Rather, a Court must determine whether the compromise

struck is “fair, equitable, and in the best interest of the estate.” *Id.* at *7.¹⁴ To make that determination, the Court must balance the “terms of the compromise with the likely rewards of litigation” by considering several factors: “(1) The probability of success in the litigation, with due consideration for the uncertainty in fact and law; (2) The complexity and likely duration of the litigation and any attendant expense, inconvenience and delay; and (3) All other factors bearing on the wisdom of the compromise,” including the “best interests of the creditors, with proper deference to their reasonable views” and the “extent to which the settlement is truly the product of arms-length bargaining, and not of fraud or collusion.” *E.g., id.; In re Alfonso*, 2019 Bankr. LEXIS 2816, at *8.

30. Importantly, the Court should not just consider whether the compromise as a whole is fair, rather, the Court must look at each component to determine whether the Proposed Settlement is in the best interest of the Debtor’s estate. *See In re Allied Props., LLC*, 2007 Bankr. LEXIS 2174, at *13 (Bankr. S.D. Tex. June 25, 2007) (Isgur, M.) (rejecting a settlement despite “[m]ost provisions” of the compromise being fair, equitable, and in the best interest of the debtor’s estate, because “two provisions do not meet this standard”). It is the Debtor’s burden to establish that the Proposed Settlement is within the range of reasonable alternatives and would lead to a fair and equitable claim settlement. *Id.* at *12.

31. Here, the Proposed Settlement includes several components that are not fair, equitable, or in the best interest of the Debtor’s estate. The Debtor acknowledges that it made “substantial compromises.” Mot. ¶¶ 28, 47. All settlements necessarily include compromises. But those compromises must be reasonable concessions, not capitulations. The Debtor misleadingly portrays those compromises as providing its estate with “immediate[]” benefits. Mot.

¹⁴ Unless noted, all internal quotations have been omitted.

¶ 64. UBS disagrees. In fact, those compromises—which provide no reductions for substantial litigation risk, and forfeit the estate’s rights to meaningful assets—provide Redeemer with a windfall to the detriment of the Debtor’s estate and other creditors.

32. For these reasons and others, there is sufficient basis to reject the Proposed Settlement based on the Bankruptcy Rule 9019 factors set forth by the Fifth Circuit.

A. The Debtor Is More Likely Than Not To Succeed On Its Motion To Vacate

33. Under the first factor, the Debtor argues that it is unlikely to succeed in contesting the Redeemer Claim because the claim is based on the Arbitration Award, which addressed every claim and argument asserted by the parties, after the Panel examined extensive evidence, heard lengthy argument, and made detailed legal and factual findings. Mot. ¶ 43. But the Proposed Settlement does not account for the fact that the Arbitration Award is contingent, disputed, and has never been confirmed by any court of competent jurisdiction.¹⁵

34. The Debtor argues that Redeemer “could simply move to lift the automatic stay for the sole purpose of having the Arbitration Award confirmed, thereby eliminating the alleged ‘contingent’ nature of the claim.” Mot. ¶ 46. But the Debtor ignores that, even if this Court granted Redeemer’s motion to lift the automatic stay, the Debtor’s Motion to Vacate is also fully briefed and pending before the Delaware Court. While litigation outcomes are never guaranteed, at minimum, the Debtor’s chance of success on its Motion to Vacate and Redeemer’s Motion to Confirm is much closer to 50% than the 0% chance of success the Proposed Settlement appears to assign to it, by applying no reduction to account for this litigation risk.

¹⁵ For this reason and others, UBS objected to Redeemer’s characterization of the Arbitration Award as an “executory contract” under 11 U.S.C. § 365, rather than as the prepetition litigation damages claim that it is. UBS Obj. ¶¶ 21-22 (*citing, e.g., In re Denman*, 513 B.R. 720, 723 (Bankr. W.D. Tenn. 2014) (“[A]n executory contract must be a ‘contract’ and not some other legal instrument.”)). The Debtor argues that this issue is “moot” because the Proposed Settlement does not treat the Arbitration Award as an executory contract.

35. As the Debtor itself argued in the Motion to Vacate, and as addressed more fully in the UBS Objection, *see* UBS Obj. ¶¶ 23-32, the Panel overstepped its fundamental authority as arbitrators by modifying certain aspects of the Partial Final Award, in violation of well-established state law, the Federal Arbitration Act, and Rule 50 of the AAA Commercial Arbitration Rules. *See Weinberg v. Silber*, 140 F. Supp. 2d 712, 724 (N.D. Tex. 2001) (“[T]he arbitrator shall not revisit his decision on the merits, as his authority to do so has expired.”), *aff’d*, 57 F. App’x 211 (5th Cir. 2003); 9 U.S.C. §10; AAA R-50 (“[Parties] may request the arbitrator, . . . , to correct any clerical typographical, or computational errors in the award,” but “[t]he arbitrator is not empowered to redetermine the merits of any claim already decided.”). The new Final Award improperly modified the Partial Final Award in two distinct ways.

36. *First*, the Final Award dramatically expanded the Debtor’s purported liability for Redeemer’s claim that the Debtor had improperly transferred the Barclays LP Interests to Eames. The Partial Final Award acknowledged Redeemer’s claims included the “payment of Distribution Fees” and “transfer of Barclays’ Fund interests without Redeemer Committee approval.” *See* PFA at 8; *but see* Mot. ¶ 54 (arguing the UBS Objection “conflates two separate and distinct issues” related to Barclays). Whereas the Partial Final Award discussed both claims and awarded Redeemer total damages in the amount of \$14,452,275 (and prejudgment interest through March 6, 2019) for the Distribution Fee Claim, including for the Debtor’s “improper” transfer of Barclays LP Interests, the Panel elected in the Final Award to grant Redeemer an additional \$21,768,743 in damages arising out of the Debtor’s “improper” transfer of the Barclays LP Interests. FA at 18. That is not all. The Final Award also awarded Redeemer prejudgment interest on these new compensatory damages—a sum that, on its own, adds yet another \$9,042,623 to the award. *Id.* All told, the Panel’s modification of these aspects of the Partial Final Award resulted in a combined

total of **\$30,811,366 in new damages** for the Debtor’s transfers of the Barclays LP Interests—an amount Redeemer itself now refers to as the “Barclays Claim.” Redeemer Claim Rider at 2.¹⁶

37. *Second*, in the Final Award, the Panel reconsidered its prior ruling on prejudgment interest. The Panel had previously ordered that the Debtor pay Redeemer a finite amount of prejudgment interest (9% per simple interest annum) “through the date of this Partial Final Award” (March 6, 2019), PFA at 14, yet the Panel threw that limitation out entirely in the Final Award. After openly acknowledging its prior ruling, *see* FA at 14, the Panel announced in the Final Award that it was doing away with that March 6, 2019 end date and, instead, all such interest would run through “the earlier of the date paid or the entry of a final judgment,” *id.* at 2, 14. In addition to the \$30.8 million in additional damages for the Barclays LP Interests, the additional interest contemplated by the Final Award accounted for at least **another \$5.7 million** through the Petition Date, for a total of **approximately \$36.5 million** in new damages.

38. Any suggestion that the two major modifications discussed above were attempts to correct “clerical, typographical, or computational errors,” AAA R-50, is belied by their sweeping impact. Prior to the Final Award, the aggregate amount of compensatory damages expressly awarded to Redeemer under the Partial Final Award was roughly \$142 million (excluding fees and costs). The Panel’s two modifications described above, standing alone, immediately add no less than \$36,500,000 to that compensatory damages sum—more than a **25% increase** (in addition to mandatory injunctive relief purporting to require the Debtor to take the Barclays LP Interests from Eames and transfer them to Redeemer).¹⁷ FA at 18. The portions of the Final Award reflecting

¹⁶ On top of these additional liquidated damages, the Panel ordered the Debtor to “take all necessary steps to cause the improperly taken [] LP interests currently owned and controlled by Respondent through Eames, Ltd to be transferred to Claimant . . . within sixty (60) days from the date of transmittal of this Final Award”—mandatory injunctive relief that is also not mentioned anywhere in the Partial Final Award. FA at 18.

¹⁷ Eames’s limited partner interests in Crusader are valued at several million dollars, and possibly more based on the other amounts related to these interests released in the Proposed Settlement. In addition to being subject to

these improper, material modifications are examples of the Panel exceeding its authority and are subject to vacatur. *Smith v. Transp. Workers Union of Am.*, 374 F.3d 372, 375 (5th Cir. 2004) (“If an arbitral panel exceeds its authority, it provides grounds for a court to vacate that aspect of its decision.”).

39. The Proposed Settlement does not appear to account for the very real risk that a court would vacate those aspects of the Arbitration Award, as the Debtor strongly believed itself when it advocated for vacatur on the same grounds described above to the Delaware Court. The Debtor argues now that “[t]hese procedural attacks on the Arbitration Award were considered and rejected by the Panel” and are unlikely to succeed “here” or in the Delaware Court, if the automatic stay were lifted. Mot. ¶ 49. But the Panel’s self-serving evaluation of its conduct is unreasonable and irrelevant to a court’s independent analysis of whether that same Panel exceeded its authority under the applicable law and rules.

40. In fact, the Panel’s own excuses for its conduct removes any doubt that it exceeded its authority. In the Final Award, the Panel claims the new damages awarded for the Barclays LP Interests were “clear” in the Partial Final Award but it left that “paragraph missing from the damages portion” inadvertently. FA at 9. But courts have considered, and rejected, this exact “explanation” before. *See Wein v. Morris*, 909 A.2d 1186, 1198 (N.J. Super. Ct. App. Div. 2006) (deciding that AAA Rule 46, the predecessor to Rule 50, does not allow modifications to address “inadvertent omissions” and “neither expressly states nor suggests that claims denied through inadvertence could also be revisited”).

vacatur for the reasons discussed above, the Debtor’s Motion to Vacate also challenged this injunctive relief on the basis that Eames was not a party to the arbitration and it was therefore outside of the Panel’s powers to award this relief. Ex. A, Debtor Brief to Vacate at 8, 15, 17-18.

41. To justify the settlement, the Debtor now credits Redeemer’s arguments that the Partial Final Award was labeled “Partial,” directed the parties to confer regarding the amount of certain damages, and left the hearing open for those issues to be agreed upon or decided by the Panel. Mot. ¶ 51. But this loses sight of an important distinction: the Panel did not leave the hearing open until *all issues* were resolved; the panel left the “hearing open until all *issues set forth above* have been agreed upon by the Parties or decided by the Tribunal.” PFA at 56. The issues “set forth above” did not include damages for the Barclays LP Interests or prejudgment interest because those issues had already been directly addressed and decided in the Partial Final Award. *E.g.*, PFA at 14, 24. The Panel conceded as much, *see* FA at 14 (“In the March 6 Partial Final Award, we awarded damages and interest through the date of that award”), but decided to reach a different conclusion in the Final Award because, in its own view, the prior ruling in the Partial Final Award was “*not determinative of this issue.*” FA at 15. That is exactly what the Panel cannot do. A partial final award rendered on any issue is, by definition, determinative of the issue. *See Fluor Daniel Intercontinental, Inc. v. GE*, 2007 WL 766290, at *2-3 (S.D.N.Y. Mar. 13, 2007); *see also Trade & Transp., Inc. v. Nat. Petroleum Charterers Inc.*, 931 F.2d 191, 195 (2d Cir. 1991).

42. No court has ever ruled on the propriety of the Panel’s attempts to redetermine the merits of claims already decided. The Debtor argues that under the Federal Arbitration Act, this Court would be required to defer to the Panel’s exercise of its discretion under AAA Rule 8 to “interpret and apply” the AAA Rules, “*so long as it is ‘within reasonable limits.’*” Mot. ¶ 58 (quoting *Commc’ns Workers of Am., AFL-CIO, v. Sw. Bell Tel. Co.*, 953 F.3d 822, 827 (5th Cir. 2020)) (emphasis added). But the Debtor cannot seriously expect that this Court (with its equitable powers) or the Delaware Court would view changes that fundamentally alter—and in this instance, significantly increase—the relief granted to Redeemer as a mere correction of a “clerical error”

and a “reasonable” interpretation of AAA Rule 50. Nor does the Debtor’s Motion grapple with the fact that the modifications requested by Redeemer, which prompted changes in the Final Award, were requested too late under Rule 50.¹⁸

43. UBS recognizes that litigation is uncertain. But even if the likelihood of the Debtor prevailing on its Motion to Vacatur is assigned a 50% chance of success, that would suggest a \$18,250,000 (\$36,500,000 x 50%) reduction of the Redeemer Claim to account for that uncertainty, millions above the “modest” unspecified reduction of \$924,255 included the Proposed Settlement. Mot. ¶ 32. UBS submits that the Debtor’s failure to take into account the litigation risk associated with its arguments for vacatur is an exercise of business judgment that falls below any range of reasonableness. *In re Allied Props., LLC*, 2007 Bankr. LEXIS 2174, at *20 (Bankr. S.D. Tex. June 25, 2007) (Isgur, M.) (requiring the trustee to “show that his decision falls within the range of reasonable litigation alternatives”).

B. This Court Or the Delaware Court Could Decide The Motions To Confirm And Vacate With Minimal Expenditure Of Time And Resources

44. Under the second factor, the Debtor seems to place the Redeemer Claim at both ends of this spectrum. To show that the complexity of litigation favors settlement, the Debtor asserts that issues in the Redeemer Claim “are fairly complex; litigation would require meaningful resources, would take time, and would delay the Debtor’s efforts to get to a confirmable plan.” Mot. ¶ 59. But as discussed above, the Debtor also acknowledges that its Motion to Vacate and Redeemer’s Motion to Confirm were both fully briefed prior to the Petition Date, and that

¹⁸ In contrast to Redeemer’s April 5, 2019 submission, Redeemer’s March 7, 2019 submission was timely—but the Panel responded to that request before the Debtor’s 10-day response period had lapsed. *See generally* MA; FA at 1.

Redeemer “could simply move to lift the automatic stay for the sole purpose of having the Arbitration Award confirmed.” *Id.* ¶ 46.

45. UBS does not dispute that the Panel already made extensive findings of fact, legal rulings, and credibility determinations. The only issue left to be litigated is the propriety of the Panel’s modifications to the Arbitration Award at issue. No further discovery, evidence, or witness testimony is needed to decide that issue, so the remaining litigation would be a much “simpler” proceeding than the previous evidentiary hearing before the Panel, which featured four expert witnesses as well as eleven fact witnesses and spanned nine days. Mot. ¶ 43. Nor would this consume meaningful resources or cause significant delay—all that is left to do is for a court (this Court or the Delaware Court) to rule on the Debtor and Redeemer’s pending motions.¹⁹ In fact, the Debtor would likely spend only a very small sum of money in legal fees (if anything), to possibly reduce the Redeemer Claim by as much as \$36,500,000.

C. The Proposed Settlement Is Not In The Best Interests Of All Creditors

46. Under the third factor, this Court must consider all other factors bearing on the wisdom of the Proposed Settlement, including most importantly, whether the Proposed Settlement is in the best interests of *all* the creditors. Applying this factor, courts generally look at “the consideration offered by the settling creditor and the degree to which creditors object.” *In re Rogumore*, 393 B.R. 474, 480 (Bankr. S.D. Tex. 2008); *In re Shankman*, 2010 Bankr. LEXIS 619,

¹⁹ The Motion also references how “notoriously complex” setoff issues would arise with respect to the Deferred Fees and Cornerstone shares in litigation. Mot. ¶ 59. To “make an informed and independent judgment, however, the court needs facts, not allegations.” *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry v. Anderson*, 390 U.S. 414, 437 (1967); see *In re Allied Props., LLC*, 2007 Bankr. LEXIS 2174, at *15. The Debtor states, without citation, that “under principles of setoff, the Redeemer Committee may have only been required to tender shares equal in value to the recovery of its claim.” Mot. n.15. It is unclear how traditional principles of setoff—under which a Debtor’s monetary debt owed to a creditor is offset by a separate monetary debt owed by the creditor to the Debtor—applies to a situation like this one, where the Deferred Fees and Cornerstone shares are real assets owed to the Debtor. Without further elaboration, the Debtor does not show that this Court would need to address this “notoriously complex” issue.

at *9 (Bankr. S.D. Tex. Mar. 2, 2010) (Isgur, M.). Where a significant unsecured creditor affected by the Proposed Settlement—here, UBS—objects, “the Court must look to the reasonable views of” that creditor. *Id.* at *20 (rejecting a settlement when only two creditors “strenuously opposed” but it became “clear that they will not receive any benefit under the proposed compromise”).²⁰

47. The Debtor describes the Proposed Settlement as purportedly benefitting the estate, doing so “on reasonable terms,” and in the exercise of “sound business judgment.” Mot. ¶ 63. But the Proposed Settlement’s terms should not be viewed as anything approaching “reasonable” to any creditor, except Redeemer. When studied carefully, the supposed benefits to the estate are illusory. *In re Shankman*, 2010 Bankr. LEXIS 619, at *10 (rejecting the proposed settlement because it offered only “illusory benefits” and was not just, equitable, and in the best interests of the estate).

48. In addition to the lack of any reduction to account for the litigation uncertainty associated with the risk of vacatur discussed above, in the Proposed Settlement, the Debtor forfeits the right to meaningful assets that otherwise would be transferred to the estate and distributed pro rata among all of the estate’s unsecured creditors. This provides a windfall to Redeemer to the detriment of other creditors, by not only permitting Redeemer to receive more than its pro rata share of the Debtor’s estate, but also requiring the Debtor to forfeit the estate’s rights to valuable assets. When these components are factored in, Redeemer could receive a greater than 100% recovery on the Redeemer Claim, and all other creditors would lose out. Accordingly, this

²⁰ The Motion asserts that the UBS Objection was the only objection made to the Redeemer Claim or Crusader Claim. Mot. ¶ 33 n.10. The number of creditors who object to a claim or settlement is not dispositive of this factor or the resolution. Regardless of whether *any* creditors object, “[t]he Court is obliged to independently consider whether the creditor’s best interests are being served.” *In re Allied Props., LLC*, 2007 Bankr. LEXIS 2174, at *27 (Bankr. S.D. Tex. June 25, 2007) (Isgur, M.). Even when no creditors object, a Court must reject a claim settlement if the compromise is not fair, equitable, and in the best interest of the debtor’s estate. *In re Rogumore*, 393 B.R. at 479 (finding a compromise was not fair, equitable, or in the best interests of the debtor’s estate “[a]lthough no objections to the motions were filed”).

compromise violates the third factor that courts in the Fifth Circuit have focused on in evaluating settlements. *In re Allied Props., LLC*, 2007 Bankr. LEXIS 2174, at *18-19 (“Th[e third] factor focuses on the degree to which the compromise serves *all* creditors’ interests. The compromise provides *no* material benefits to the estate. Consequently, to the extent that the compromise gives Black Mountain assets that otherwise would be distributed pro rata among all the estate’s unsecured creditors, the compromise violates the third factor.”).

1. The Debtor Would Forfeit Its Right To Collect Deferred Fees

49. The Debtor acknowledges that while the Panel found that \$32,313,000 in Deferred Fees were prematurely taken by the Debtor, the Debtor ultimately would be entitled to those fees pursuant to the Plan and Scheme, upon the completion of the liquidation of Crusader. Mot. ¶¶ 25-27. In the Proposed Settlement, the Debtor and Redeemer claimed to have reached a “substantial compromise,” whereby Redeemer “agreed to reduce the Damage Award by \$21,592,000,” which the Debtor characterizes as “approximately two-thirds” of the Deferred Fees component, in exchange for the Debtor forfeiting its right to collect the Deferred Fees. Mot. ¶ 27. According to the Debtor, this compromise results in the estate “immediately” receiving a benefit (through the reduction of the Damages Award), rather than waiting for the completion of Crusader’s liquidation and “litigating at some future date the merits of” the “faithless servant” defense. Mot. ¶ 64. This characterization of the compromise, and who it really “benefits,” is misleading at best.

50. As an initial matter, the Debtor’s claim that the Proposed Settlement discounted the Deferred Fee component of the Arbitration Award by “approximately two-thirds” is inaccurate. Mot. ¶ 27. The Deferred Fee component of the Arbitration Award listed in the Redeemer Claim

is \$43,105,395 (not \$32,313,000), which includes \$10,792,395 in pre-judgment interest.²¹ Redeemer Claim Rider at 1. Thus, an “apples-to-apples” or “claim-to-claim” comparison of the asserted claim and allowed claim would acknowledge that a reduction of the so-called Damages Award by approximately \$21,592,000 is only one-half, rather than two-thirds, of the Deferred Fee component. Redeemer retains \$21,513,395 of its claim based on the Deferred Fees (\$43,105,395 - \$21,592,000), and does not have to pay the Debtor \$32,313,000 upon complete liquidation of Crusader. The Debtor, meanwhile, forfeits its right to receive *any* of the Deferred Fees indisputably owed to it upon Crusader’s completed liquidation.

51. None of Redeemer’s counterarguments (or the Debtor’s justifications) provides a reasonable basis for the Debtor to forfeit its right to \$32,313,000 in Deferred Fees in the future altogether. *First*, Redeemer apparently expressed its view that it was entitled to recover all of the Deferred Fees found by the Panel to be prematurely taken. Mot. ¶ 26. But Redeemer previously argued, and the Panel agreed, that the Debtor’s conduct was improper because it transferred the Deferred Fees to itself *too soon*. Mot. ¶ 25. The Debtor’s entitlement to the Deferred Fees in the future was not in question, however. For this reason, the Panel made clear that “measuring the damages suffered by [Redeemer] by referencing the full amount of the Deferred Fees taken is *not* the same as literally ordering a return of the moneys.” PFA at 14; *id.* at 3. The Motion does not explain why Redeemer, not the Debtor, would be legally entitled to those fees under any scenario. Under the Plan and Scheme, contracts to which Redeemer is a party, the Debtor alone is entitled

²¹ Of this prejudgment interest, \$9,007,655 accrued by March 6, 2019, the date of the Partial Final Award. PFA at 54. An additional \$1,784,740 in prejudgment interest was later added in the Final Award. FA at 16. This portion may be vacated. *Infra* Section A, at 16.

to those fees, and the Arbitration Award did not alter those rights in any way or order that the Debtor “return” or forfeit the fees.

52. *Second*, the Debtor implies that it will not receive the Deferred Fees until some point far in the future, when Crusader’s liquidation is complete, but the Debtor provides no facts to ascertain what assets besides the Cornerstone shares, if any, remain at Crusader to be liquidated or when Crusader’s liquidation may be completed. Crusader went into wind down in 2008—twelve years ago. *See* Mot. ¶ 11. The Arbitration Award suggests the Cornerstone shares are among the last assets at Crusader to be liquidated. PFA at 51 (discussing whether liquidation of the Cornerstone shares had delayed liquidation being completed). Therefore, it is entirely possible that Crusader may be liquidated before the close of this Chapter 11 Case. The uncertainty of *when* the Debtor’s estate will receive the Deferred Fees is not reason to forfeit them altogether.

53. *Third*, Redeemer’s argument that the Debtor would be barred from recovering any of the Deferred Fees from Crusader upon its complete liquidation because of the “faithless servant” doctrine is meritless and ignores the Debtor’s valid defenses. *See* Mot. ¶ 26. Redeemer contends that waiver and estoppel are inapplicable because “that is a defense that would only be required to be asserted when HCMLP made a claim for the Deferred Fees—as it did during the negotiations.” Mot. ¶ 28 n.9. However, recent negotiations were not the first time the Debtor sought to collect the Deferred Fees, meaning this defense was “required to be asserted” previously. When the Debtor asserted a counterclaim for the Deferred Fees during arbitration, Redeemer defended itself against that claim without ever raising the faithless servant defense. PFA at 49. Moreover, under the Proposed Settlement, the parties agreed to an allowed claim of \$50,000 for the Crusader Claim—a claim based in its entirety on the same “faithless servant” doctrine—because, as the

Debtor points out, it “is very likely to defeat this claim based on, among other things, affirmative defenses, including the statute of limitations, waiver, laches, and estoppel.” Mot. ¶ 58 n.14.

54. The Debtor’s forfeiture of its clear right to the Deferred Fees is not a sound exercise of business judgment. The \$32,313,000 in Deferred Fees is a cash receivable, a valuable asset that Redeemer would otherwise be required to transfer to the estate upon liquidation of Crusader, at which point it would be available to increase *all* creditors’ pro rata recoveries on their allowed claims. *That* would be a real benefit to the estate, even if not an “immediate” one. In that scenario, Redeemer would end up giving more in real, cash assets to the Debtor through this pay-back obligation than it would receive on a pro rata basis recovery on its Deferred Fee Claim. Instead, Redeemer avoids this obligation altogether. There is nothing fair or equitable about this compromise from the perspective of all other creditors.

2. The Debtor Would Forfeit Its Right To Crusader’s Cornerstone Shares, Which May Be Worth Double The Value Assigned To Them For Settlement Purposes

55. Next, there is no dispute that the Arbitration Award requires Redeemer, simultaneously with a damages payment from the Debtor (including prejudgment interest), to have Crusader “tender its Cornerstone shares to [the Debtor].” FA at 17; PFA at 48; *see* Mot. ¶ 31. In the UBS Objection, UBS expressed concern regarding how the value of Crusader’s 14,380 Cornerstone shares would be taken into account when calculating the true value of the Redeemer Claim. UBS Objection ¶ 20. The Debtor dismisses these concerns as “moot” with little explanation: “these obligations were fully considered by the Debtor and form the basis for substantial compromises embedded in the Stipulation.” Mot. ¶¶ 35, 47. UBS’s concerns, however, are only heightened by the treatment of Crusader’s Cornerstone shares in the Proposed Settlement.

56. Under the Proposed Settlement, the Debtor “agreed to treat the Cornerstone Shares differently from the process required under the Arbitration Award.” Mot. ¶ 31. Rather than

tendering the Cornerstone shares, Redeemer’s “Damage Award will be reduced by approximately \$30.5 million to account for the perceived fair market value of those shares,” and Crusader will retain the shares. *Id.* This “substantial compromise” is actually a complete surrender.

57. As an initial matter, this reduction translates to Redeemer receiving *over half* of the Cornerstone component in its allowed claim. The Cornerstone component of the Arbitration Award listed in the Redeemer Claim is \$71,894,891 (not \$48,070,407, as the Debtor suggests), which includes \$23,824,284 in pre-judgment interest.²² Redeemer Claim Rider at 1. Thus, an “apples-to-apples” or “claim-to-claim” comparison of the asserted claim and allowed claim would acknowledge that a reduction of the total payments by approximately \$30.5 million is a less than 50% reduction of the Cornerstone component (\$71,894,891). Put differently, Redeemer retains both \$17,570,407 of its asserted claim based on the Cornerstone shares (\$48,070,407 - \$30,500,000), *plus* another \$23.8 million (the full amount of pre-judgment interest awarded by the Final Award), for a total of \$41,394,691 in an allowed claim to be paid pro rata from the estate. And on top of that, Redeemer retains the value of Crusader’s Cornerstone shares upon their liquidation, while the Debtor “does not have to purchase” Crusader’s Cornerstone shares for \$48,070,407 in cash (which the Debtor points out it does not have).

58. But that is not the way that the Arbitration Award was supposed to operate and it is certainly not an equitable way to proceed in this Chapter 11 Case. The Debtor was supposed to pay to Redeemer a fixed amount, which included the Panel’s calculation of the fair market value of Crusader’s 14,380 shares in Cornerstone plus prejudgment interest. PFA at 48. In return, Crusader was required to tender its Cornerstone shares to the Debtor. That the Debtor does not

²² Of this prejudgment interest, \$21,169,417 accrued by March 6, 2019, the date of the Partial Final Award. PFA at 54. An additional \$2,655,067 in prejudgment interest was later added in the Final Award. FA at 16. This portion may be vacated. *Infra* Section A, at 16.

have \$48,070,407 in cash (right now) to pay the full amount assigned by the Panel to the Cornerstone component of the Damages Award is beside the point. Based on the Debtor's current asset valuation, no general unsecured creditors, other than perhaps certain retained employees, will receive a full recovery on account of their prepetition claims. But permitting Redeemer to avoid that downside by keeping both half of the amount that was supposed to be paid for the Cornerstone shares *and* the Cornerstone shares provides Redeemer with a windfall that the Panel did not contemplate.

59. Moreover, the Debtor's reduction of the Redeemer claim by \$30.5 million falls below any reasonable range of valuation, including the Debtor Houlihan Valuation or even the Crusader Houlihan June Valuation. REDACTED

higher than the \$30.5 million

fair market value calculated in the Crusader Houlihan March Valuation and used by the Debtor for settlement purposes. It is unreasonable for the Debtor to accept a lower valuation calculated by the exact same financial firm, while failing to provide the Court with any explanation of what analysis the Debtor or Houlihan performed to determine that this lower value is reasonable (and should be fixed in March as opposed to June, when the value of Cornerstone increased in those three months). *See In re Rogumore*, 393 B.R. 474, 481 (Bankr. S.D. Tex. 2008) (rejecting a settlement under Rule 9019 and questioning why the estate should "be forced to accept the low valuation at whatever date," when "[n]o party to the Compromise adequately explained why the cash surrender value should be fixed at the March 24 value").

60. In fact, UBS believes that the valuation of Crusader's shares in Cornerstone is potentially nearly triple the \$30.5 million calculated in the Crusader Houlihan March Valuation

and used by the Debtor for settlement purposes. According to the Grant Thornton Estimation, the true value of Cornerstone as of June 30, 2020 might be between \$116 million and \$208.7 million. GT Decl. ¶ 5. This means that Crusader’s 14,830 shares might have a value of between \$46.5 million and \$83.6 million, *id.* ¶ 6, which Redeemer will receive upon a sale of Cornerstone.

61. Indeed, such a sale is contemplated by the Proposed Settlement. Specifically, the Proposed Settlement requires the Debtor to “in good faith, use commercially reasonable efforts to monetize all shares of capital stock of Cornerstone held by the Debtor, any funds managed by the Debtor, and the Crusader Funds,” and requires Redeemer to cooperate in the sale process. Mot. ¶ 23. According to the Debtor, Redeemer’s cooperation means that Cornerstone “may be sold as a whole, to the likely benefit of all creditors.” Mot. ¶ 64. Redeemer’s cooperation is an illusory benefit. If instead, Redeemer was required to comply with its obligations under the Arbitration Award, Crusader’s minority interest in Cornerstone would be transferred to the Debtor, and the Debtor would have the same ability to sell Cornerstone “as a whole.”²³ Plus, as UBS understands, Cornerstone is among the last of Crusader’s assets to be liquidated, so under the Plan and Scheme, the Debtor could (upon receipt of Crusader’s shares) trigger payment of the \$32,313,000 of Deferred Fees due to the Debtor upon completion of the Crusader liquidation.

3. The Proposed Settlement May Result In Redeemer Recovering More Than 100% On Its Claim

62. All told, the Debtor’s forfeiture, and Redeemer’s retention, of the Deferred Fees and Cornerstone shares may in fact result in Redeemer recovering more than 100% on its claim. The Debtor’s Plan has not been approved and the general unsecured creditor class pro rata recovery

²³ The “Amended & Restated Stockholders’ Agreement” filed with the Proposed Settlement, Dkt. No. 1090-1 at Schedule A, raises further questions about the Proposed Settlement—and the Debtor’s acceptance of it—by including a Schedule of “Highland Capital Stockholders” that is inconsistent with other documentation provided regarding which Highland entities currently hold Cornerstone shares.

remains uncertain, for a variety of reasons. *See, e.g., First Amended Plan of Reorganization of Highland Capital Management, L.P.* [Dkt. No. 1079]. Under the Proposed Settlement, however, when the value of the forfeited assets are taken into account, Redeemer may fare far better than it would have under the underlying Arbitration Award and far better than other general unsecured creditors in this Chapter 11 Case.

63. To illustrate the potential windfall to Redeemer under the Proposed Settlement, a comparison of Redeemer’s recovery under the Arbitration Award versus its potential recovery under the Proposed Settlement is helpful. Under the Arbitration Award, the Debtor was required to pay Redeemer 118,929,666 (including prejudgment interest and attorneys’ fees) in damages and to pay Redeemer \$71,894,891 (including prejudgment interest) *in exchange* for all of Crusader’s shares in Cornerstone. In exchange, Redeemer remained obligated to (i) tender Crusader’s Cornerstone shares; and (ii) pay the Debtor \$32,313,000 in Deferred Fees upon liquidation of Crusader. As shown below, after accounting for its reciprocal obligations to the Debtor, and depending on the value of the Cornerstone shares to be tendered (which is disputed), the value of the Arbitration Award to Redeemer is between \$74,911,557 (using the Grant Thornton Estimation) and \$128,011,557 (using the Crusader Houlihan March Valuation):

Redeemer Recovery (Arbitration Award)

Highland Payments				\$190,824,557
Pay Deferred Fees				(\$32,313,000)
REDACTED				
Total Recovery	\$74,911,557	\$104,811,557	\$103,111,557	\$128,011,557

²⁴ For purposes of this chart, the highest ends of the ranges calculated by Grant Thorton and Houlihan (“HL”) are used, except for the Crusader Houlihan March Valuation, which uses the low end of the range, as the Debtor does.

64. Under the Proposed Settlement, however, Redeemer stands to gain far more. Depending on the valuation of the Cornerstone shares, Redeemer could receive or retain value in an amount up to \$253,609,610 (based on the Grant Thornton Estimation) or \$200,509,610 (based on the Crusader Houlihan March Valuation), each of which exceeds the face amount of the Redeemer Claim (\$190,824,557) and the highest recovery it would have received under the Arbitration Award (\$128,011,557), as reflected in the chart above.

Redeemer Recovery (Proposed Settlement)

Allowed Claim	\$137,696,610			
Release of Deferred Fees	\$32,313,000			
REDACTED				
Total Recovery	\$253,609,610	\$223,709,610	\$225,409,610	\$200,509,610

65. Not only does the Proposed Settlement create a likelihood that Redeemer will recover more than 100% of its filed claim amount, it does so while depriving the Debtor’s estate of valuable assets that could be used to pay other creditors and increase their pro rata recovery. This contradicts any assertion that the “proposed settlement is in the best interests of the Debtor’s creditors.” See Mot. ¶ 62. Where, as here, the Proposed Settlement “adversely affect[s] recovery by the estate’s other creditors,” it is not “fair and equitable” and should be rejected. *In re Alfonso*, 2019 Bankr. LEXIS 2816, at *13 (Bankr. W.D. Tex. Sept. 6, 2019).

CONCLUSION

²⁵ For purposes of this chart, the highest ends of the ranges calculated by Grant Thornton and Houlihan (“HL”) are used, except for the Crusader Houlihan March Valuation, which uses the low end of the range, as the Debtor does.

66. For the foregoing reasons, UBS respectfully requests that the Court independently assess the merits of the Proposed Settlement. Upon doing so, UBS submits that the Court should deny the Motion and provide any such other and further relief to which UBS and all creditors might be entitled. UBS respectfully submits that such relief should include an Order requiring the Debtor to provide sufficient information for UBS and the Court to assess the true value of the Cornerstone shares held by Crusader, and/or an Order requiring the Debtor to obtain a valuation of Cornerstone from an independent, third-party financial advisor.

67. In the alternative, even if the Court approves the Proposed Settlement, UBS respectfully requests that when the Debtor and Redeemer have sold the Cornerstone shares, if the sale price of Crusader's 14,380 shares exceeds the \$30,500,000 "perceived" fair market value assigned to them in the Proposed Settlement, the Court take the additional proceeds of that sale into consideration when calculating Redeemer's pro rata recovery from the Debtor's estate, under Section 105 of the Bankruptcy Code.

DATED this 16 day of October, 2020.

LATHAM & WATKINS LLP

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CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) The Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) The Highland Crusader Funds (Claim No. 81)* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: October 16, 2020.

/s/ Martin Sosland

Exhibit A

**Debtor Brief to Vacate
(To Be Filed Under Seal)**

Exhibit B

6/4/20 Presentation to Redeemer

(To Be Filed Under Seal)

Exhibit C

8/6/20 Presentation to Redeemer

(To Be Filed Under Seal)

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

	X	
<i>In re</i>	:	Chapter 11
	:	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	:	Case No. 19-34054-sgj11
	:	
Debtor.	:	
	X	

DECLARATION OF W. KEVIN MOENTMANN
IN SUPPORT OF OBJECTION TO THE DEBTOR’S MOTION FOR ENTRY OF AN
ORDER APPROVING SETTLEMENTS WITH (A) THE REDEEMER COMMITTEE
OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72), AND (B) THE HIGHLAND
CRUSADER FUNDS (CLAIM NO. 81)

I, W. Kevin Moentmann, pursuant to 28 U.S.C. § 1746(a), declare under penalty of perjury as follows:

1. I am a principal in the accounting firm of Grant Thornton LLP (“Grant Thornton” or “We”), financial advisor to UBS Securities LLC and UBS AG, London Branch in this matter. I have over thirty years’ experience providing advisory services to healthcare entities for acquisition, regulatory compliance and for financial reporting purposes. My healthcare valuation experience includes the valuation of general and specialty hospitals; long term acute care hospitals, skilled nursing facilities, rehabilitation facilities; surgical centers; imaging centers; dialysis centers; general and specialty hospitals; hospice/home health entities and clinics. See Exhibit 1 for a copy of my bio.

¹ The Debtor’s last four digits of its taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

2. I submit this Declaration in support of UBS's *Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) The Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) The Highland Crusader Funds (Claim No. 81)* based on my personal knowledge and a review of relevant documents accessible to me. Should additional information or documents be produced at a later date, the opinions and conclusions stated herein could be adjusted to reflect such information.

3. The subject of this declaration is to provide our findings regarding analysis of valuations prepared by Houlihan Lokey ("Houlihan") which estimate the fair value of Cornerstone Healthcare Group Holding, Inc. ("Cornerstone" or the "Company") as of June 30, 2020 (the "Valuation Date"). The valuations were performed for Highland Capital Management L.P. ("Highland" or "HCM") and Highland Crusader Fund ("Crusader"). I note Highland and Crusader entered into a settlement related to Crusader's equity interest in Cornerstone of \$30.5 million.²

REDACTED

The analysis described below focuses on the more recently prepared June 30, 2020 Houlihan valuations and allows for a side-by-side comparison of the Houlihan valuations.

4. Our procedures included the following:
 - a. Requested information (see Exhibit 2 for a complete list of documents requested);

² Debtor's Motion for Entry of an Order Approving Settlements with (A) The Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) The Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith, Pg. 10

b. Reviewed information received (see Exhibit 3 for a complete list of documents received to date) with the key documents listed below being the focus of our review:

- i. *Highland Cornerstone 6.30.20 Draft (7.2.20).pdf* (the “Houlihan HCM Schedules” – See Attachment B)
- ii. *CRUSADER_00030.pdf* (the “Houlihan Crusader Schedules” – See Attachment C)

c. Evaluated the Houlihan HCM Schedules and Houlihan Crusader Schedules and provided adjusted alternative calculations of value based on the observations described in this declaration (see Exhibit 4 for my alternative calculations of value).

5. A summary of Houlihan’s concluded equity value of Cornerstone prepared for Highland and Crusader, as well as my adjusted calculations of value, is presented below.³

<i>Total Cornerstone Equity Value as of June 30, 2020</i>	<i>Low</i>	<i>High</i>
REDACTED		

a. REDACTED

³ “DLOM” stands for Discount for Lack of Marketability

ii.

REDACTED

b.

REDACTED

- a. The below table summarizes the value range (in millions) of Crusader's equity interest in Cornerstone based on an assumed 40.05% ownership interest by Crusader.⁴

⁴ Crusader's 40.05% equity interest is calculated as follows: 14,830 shares owned by Crusader divided by 37,025 shares outstanding as implied by the per share values on pg 3 to the Houlihan HCM Schedules. Different estimates of shares outstanding exist within documents referred to in Exhibit 2.

Value of Crusader Interest in Cornerstone as of June 30, 2020 *Low* *High*

REDACTED

7. I make the following observations concerning the Houlihan HCM Schedules and the Houlihan Crusader Schedules:

a. **REDACTED**

⁵ Houlihan HCM Schedules, pg. 10

⁶ Houlihan HCM Schedules, pg. 11

⁷ Houlihan HCM Schedules, pg. 4

REDACTED

REDACTED

⁸ Houlihan HCM Schedules, pg. 3

⁹ Debtor's Motion for Entry of an Order Approving Settlements with (A) The Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) The Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith, Pg. 7-8

¹⁰ Houlihan HCM Schedules, pg. 22

REDACTED

¹¹ Duff & Phelps' *2020 Cost of Capital Navigator*

¹² Houlihan HCM Schedules, pg. 19, Houlihan Crusader Schedules, pg. 19

¹³ See Exhibit 4, Schedule 1

¹⁴ Houlihan HCM Schedules, pg. 4

REDACTED

¹⁵ See Exhibit 4, Schedule 1

¹⁶ Houlihan HCM Schedules, pg. 14 - 17

¹⁷ Houlihan HCM Schedules, pg. 14

¹⁸ Houlihan HCM Schedules, pg. 4

REDACTED

¹⁹ Houlihan Crusader Schedules, pg. 14 - 17

²⁰ Houlihan Crusader Schedules, pg. 14

²¹ Houlihan HCM Schedules, pg. 4, Houlihan Crusader Schedules, pg. 4

²² Houlihan Crusader Schedules, pg. 14

REDACTED

²³ Houlihan HCM Schedules, pg. 4

²⁴ Houlihan Crusader Schedules, pg. 4

²⁵ REDEEMER_004906-REDEEMER_004924

REDACTED

²⁶ Houlihan HCM Schedules, pg. 4, Houlihan Crusader Schedules, pg. 4

REDACTED

²⁷ See Exhibit 4, Schedule 1

²⁸ Houlihan HCM Schedules, pg. 4, Houlihan Crusader Schedules, pg. 4

REDACTED

REDACTED

²⁹ Debtor's Motion for Entry of an Order Approving Settlements with (A) The Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) The Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith, Pg. 7-8

³⁰ Houlihan Crusader Schedules, pg. 4, 25

REDACTED

I certify under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of October, 2020.

A handwritten signature in black ink, appearing to read "W. Kevin Moentmann". The signature is written in a cursive style with a large initial "W" and "M".

W. Kevin Moentmann

Exhibit 1



W. Kevin Moentmann

CFA, CEIV



Principal, Valuation Services

Experience

Kevin is a Principal located in Grant Thornton's St. Louis, Missouri office. He oversees and coordinates the technical and administrative aspects of valuation and financial consulting engagements on a national basis and works extensively with Grant Thornton's Health Care Advisory Practice. Kevin has provided consulting, valuation and compensation services to health care systems, pharmaceutical companies and medical equipment entities across the U.S.

Industry experience

Kevin has provided health care consulting and financial valuation services since 1987. Kevin began his career providing valuation services at a leading public accounting firm. Prior to joining Grant Thornton, he spent eighteen years in the valuation practice at a publicly-traded professional services firm.

Kevin has over thirty years' experience providing advisory services to healthcare entities for acquisition, regulatory compliance (Stark, anti-kickback and Fraud and Abuse) and for financial reporting purposes. Kevin's healthcare valuation experience includes the valuation of general and specialty hospitals; long term acute care hospitals, skilled nursing facilities, rehabilitation facilities; surgical centers; imaging centers; dialysis centers; general and specialty hospitals; hospice/ home health entities and clinics. He has valued pharmaceutical companies and medical device and equipment manufacturers along with the associated intellectual property.

Kevin has provided compensation opinions on thousands of provider arrangements across nearly all specialties for regulatory purposes. His compensation

consulting encompasses employment arrangements, professional services, administrative services, stipend arrangements, call coverage, etc.

Kevin consults with and advises leading health systems and academic medical centers as well as physician clinics and physician practice management companies regarding mergers, acquisitions, divestitures, joint ventures and various physician services arrangements, frequently in connection with each other. Kevin has provided services in litigation matters as well as for states' attorney general's office.

Professional qualifications and memberships

Certifications: Kevin has been awarded the Chartered Financial Analyst (CFA) designation. He has also earned the Certified in Entity and Intangible Valuations (CEIV) credential from the AICPA.

Affiliations: Kevin is a member of the CFA Institute.

Education

Kevin holds a Bachelor's degree in Finance from the University of Missouri - Columbia, and a Master of Business Administration from Washington University in St. Louis.

Contact details

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C: 314 322 5146

E: Kevin.Moentmann@us.gt.com



W. Kevin Moentmann

CFA, CEIV

Principal, Valuation Services

Testimony Experience

1. The Estate of Randall C. Burkemper v. David L. Burkemper. Deposition testimony. Testified as to the fair market value of an interest in Burkemper. 2018.
2. Dr. Gregory Meister vs. Kansas Spine Hospital. Deposition testimony. Testified as to the value an interest in Kansas Spine Hospital. 2014-2015.
3. Hector Ozuna vs. Alpha Factors, d/ b/ a Century 21 Alpha, Edward Zimbrick, Mark Skilling, Lee & Associates, and Does 1 through 50. November 2013. Deposition/ trial testimony. Testified regarding sale-leaseback.
4. Marie Robertson vs. Directory Publishing Services. July 2012. Deposition testimony. Testified as to the fair market value of equity of Directory Publishing Services.
5. Wireless Stores, LLC and Cellular 4Less Corporation vs. Southwestern Bell Wireless, LLC et al. American Arbitration Association. Arbitration testimony. March 2012. Testified as to the fair market value of equity of The Wireless Stores.

Exhibit 2

1. We requested the following documents from Debtor:
 - a) all documents provided to or relied upon by Houlihan Lokey for their June 30, 2020 valuation of Cornerstone
 - b) all documents previously provided to or relied upon by Houlihan Lokey for prior valuations of Cornerstone that are incorporated into or relied upon for their June 30, 2020 valuation of Cornerstone.
 - c) all documents provided to Houlihan Lokey for subsequent valuations, if any, of Cornerstone.
 - d) Information provided to Houlihan Lokey by Highland for the 6/30/2020 valuations of Cornerstone for Highland, including, but not limited to the following:
 - i. Pg. 3, Footnote 1 - Highland Ownership information
 - ii. Pg. 4, Footnote 2 – FY 2019 Appraisals provided to Houlihan by Highland
 - iii. Pg. 4, Footnote 5 – Real estate appraisals dated December 31, 2019 and Cornerstone’s pro rata ownership in each real estate facility, provided by Highland
2. We requested the following documents from Crusader:
 - a) All valuation analyses or valuation reports prepared by Alvarez & Marsal CRF Management, LLC regarding the valuation of Cornerstone as of June 30, 2020 (or valuation as of such other date used to determine the “perceived fair market value” referenced in the 9019 Motion);
 - b) All Documents provided to or relied upon by A&M in its June 30, 2020 valuation of Cornerstone (or valuation as of such other date used to determine the “perceived fair market value” referenced in the 9019 Motion);

- c) All Documents provided to or relied upon by A&M for prior valuations of Cornerstone that were incorporated into or relied upon for its June 30, 2020 valuation of Cornerstone (or valuation as of such other date used to determine the “perceived fair market value” referenced in the 9019 Motion);
- d) All Documents provided to or relied upon by A&M for any subsequent valuations of Cornerstone
- e) All Documents reflecting any analysis or comparison completed by A&M of any Houlihan valuations of Cornerstone.

Exhibit 3

Declaration of W. Kevin Moentmann
Calculations and Observations on Valuation of Cornerstone Healthcare Group Holdings, Inc.
Documents Received
Exhibit 3
Valuation Date: June 30, 2020

File Name	Prepared By
CRUSADER_00001.pdf	Houlihan Lokey
CRUSADER_00030.pdf	Houlihan Lokey
Highland - Cornerstone 6.30.20 Draft (7.2.20).pdf	Houlihan Lokey
REDEEMER_004862-REDEEMER_004883.pdf	Alvarez & Marsal
REDEEMER_004862-REDEEMER_004905.pdf	Alvarez & Marsal
REDEEMER_004862-REDEEMER_004924.pdf	Alvarez & Marsal
CHG Consolidated Financials - 05.2020_Highland056181 - Highland056183.xlsx	Cornerstone Healthcare Group
CHG Consolidated Financials - 06.2020_Highland056668 - Highland056670.xlsx	Cornerstone Healthcare Group
CHG Consolidated Financials - 07.2020_Highland057190 - Highland057192.xlsx	Cornerstone Healthcare Group
Home Health Financials - 05.2020_Highland056184 - Highland056208.xlsx	Cornerstone Healthcare Group
Home Health Financials - 06.2020_Highland056671 - Highland056701.xlsx	Cornerstone Healthcare Group
Home Health Financials - 07.2020_Highland057193 - Highland057224.xlsx	Cornerstone Healthcare Group
Rehab Financials 05-2020_Highland056411 - Highland056475.xlsx	Cornerstone Healthcare Group
Resolute Rehab Close July 2020 Financials_Highland057396 - Highland057492.xlsx	Cornerstone Healthcare Group
Resolute Rehab Close June 2020 Financials_Highland056907 - Highland056995.xlsx	Cornerstone Healthcare Group
Senior Living Close July 2020 Fin Pkg_Highland057493 - Highland057673.xlsx	Cornerstone Healthcare Group
Senior Living Close June 2020 Financials_Highland056996 - Highland057169.xlsx	Cornerstone Healthcare Group
SL Division Close May 2020 Financials_Highland056476 - Highland056649.xlsx	Cornerstone Healthcare Group
Behavioral Health Close July 2020 Fin Pkg_Highland057170 - Highland057189.xlsx	Cornerstone Healthcare Group
Behavioral Health Close June 2020 Financials_Highland056650 - Highland056667.xlsx	Cornerstone Healthcare Group
Behavioral Health Close May 2020 Financials_Highland056163 - Highland056180.xlsx	Cornerstone Healthcare Group
LTACH Financial Reporting Package - July 2020 - Final_Highland057225 - Highland057395.xlsx	Cornerstone Healthcare Group
LTACH Financial Reporting Package - June 2020 - Final_Highland056702 - Highland056906.xlsx	Cornerstone Healthcare Group
LTACH Financial Reporting Package - May 2020 - Final_Highland056209 - Highland056410.xlsx	Cornerstone Healthcare Group
1_2020 09 23 (1089) 9010 Settlement Motion - Redeemer & Crusader POCs.pdf	Debtor
2020 09 23 (1090-1) Exhibit 1.pdf	Debtor

Exhibit 4

Schedule 2

Declaration of W. Kevin Moentmann

Calculations and Observations on Valuation of Cornerstone Healthcare Group Holdings, Inc.

LTAC & Behavioral Health Market Approach | Indication Of Value

Valuation Date: June 30, 2020

US\$ in millions

Cornerstone Preliminary

REDACTED

_____	_____
_____	_____
_____	_____
_____	_____

Footnotes:

- (1) Based on discount to the 25th percentile and median multiples, respectively, for differences in size compared to the public companies.
- (2) Income statement items are taken from Income Statement as of May 31, 2020 for the trailing and next twelve months
- (3) Valuation Multiple x Financial Statistic

Exhibit 4

Declaration of W. Kevin Moentmann Schedule 3
 Calculations and Observations on Valuation of Cornerstone Healthcare Group Holdings, Inc.
 LTAC & Behavioral Health Guideline Public Company | Comparative Valuation Multiples Valuation Date: June 30, 2020
 US\$ in 000s, except per share

REDACTED

Footnotes:

- (1) Source: Capital IQ
- (2) As of June 30, 2020

Exhibit 4

Schedule 4

Declaration of W. Kevin Moentmann
Calculations and Observations on Valuation of Cornerstone Healthcare Group Holdings, Inc.
LTAC & Behavioral Health DCF Method | GT
US\$ in millions

Valuation Date: June 30, 2020

6 Months
REDACTED

Table with multiple columns and rows of data, largely redacted. The table structure is not clearly visible due to the redaction.

Table with multiple columns and rows of data, largely redacted. The table structure is not clearly visible due to the redaction.

Footnotes:
(1) Prospective Financial Information (PFI) for Cornerstone provided by management.

Exhibit 5

Exhibit 6

Attachment A

(To Be Filed Under Seal)

Attachment B

(To Be Filed Under Seal)

Attachment C

(To Be Filed Under Seal)

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

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In Re:) **Case No. 19-34054-sgj11**
)
)
HIGHLAND CAPITAL) Dallas, Texas
MANAGEMENT, L.P.,) July 8, 2020
) 1:30 p.m. Docket
Debtor.)
) - MOTION TO EXTEND EXCLUSIVITY
) PERIOD (737)
) - MOTION TO EXTEND TIME TO
) REMOVE ACTIONS (747)
)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE STACEY G.C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE.

WEBEX/TELEPHONIC APPEARANCES:

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1 APPEARANCES, cont'd.:

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7 For Redeemer Committee of the Highland Crusader Fund: Mark A. Platt
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12 For Redeemer Committee of the Highland Crusader Fund: Terri L. Mascherin
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17 For Redeemer Committee of the Highland Crusader Fund: Marc B. Hankin
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22 For Jim Dondero: D. Michael Lynn
23 John Y. Bonds, III
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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 DALLAS, TEXAS - JULY 8, 2020 - 1:37 P.M.

2 THE COURT: All right. Hello. This is Judge
3 Jernigan. Hopefully you can all hear me. We're ready to
4 start the Highland hearings we have today, Case No. 19-34054.
5 Let's start off by getting appearances from those lawyers who
6 want to appear formally today. First, for the Debtor, do we
7 have Mr. Pomerantz or a team from Pachulski Stang?

8 MR. POMERANTZ: Yes. Good morning, Your Honor. Jeff
9 Pomerantz; Pachulski Stang Ziehl & Jones; counsel for the
10 Debtors.

11 THE COURT: All right. Good afternoon. Anyone else
12 for the Debtors that wants to appear?

13 MR. ANNABLE: Yes, Your Honor. Yes, Your Honor.
14 Zachery Annable and Melissa Hayward, local counsel for the
15 Debtors.

16 THE COURT: All right. Thank you. All right. For
17 the Unsecured Creditors' Committee, I think I see Mr. Clemente
18 there on the screen.

19 MR. CLEMENTE: Good afternoon, Your Honor. Matthew
20 Clemente; Sidley Austin; on behalf of the Creditors'
21 Committee.

22 THE COURT: All right. Very good. I know we have
23 lots of other folks on the line. I'm not sure who else might
24 want to formally appear. I'll check on some of the usuals.
25 For Acis, do we have Ms. Patel or Ms. Chiarello?

1 MS. PATEL: Good afternoon, Your Honor. Rakhee Patel
2 and Annmarie Chiarello of the Winstead firm on behalf of Acis
3 Capital Management, LP. Also on the phone is Brian Shaw of
4 the Rogge Dunn Group.

5 THE COURT: All right. Thank you. For the Redeemer
6 Committee, do we have anyone appearing for them?

7 MS. MASCHERIN: Good morning, Your Honor.

8 MR. PLATT: Your Honor, --

9 MS. MASCHERIN: Go ahead, Mark.

10 MR. PLATT: Sorry. Mark Platt, Your Honor, on behalf
11 of the Redeemer Committee of the Highland Crusader Fund. And,
12 obviously, Ms. Mascherin is on the screen as well.

13 THE COURT: Okay.

14 MS. MASCHERIN: Good afternoon, Your Honor.

15 THE COURT: Good afternoon. Let's see.

16 MR. PLATT: And Mr. Hankin is on the phone as well,

17 --

18 THE COURT: Okay.

19 MR. PLATT: -- Your Honor.

20 THE COURT: All right. Very good. All right. Any
21 other -- UBS, by chance?

22 (No response.)

23 THE COURT: Okay. Anyone for the CLO Issuers?

24 (No response.)

25 THE COURT: All right. Anyone I missed? U.S.

1 Trustee, perhaps?

2 (No response.)

3 THE COURT: All right. Well, --

4 MR. LYNN: Your Honor, --

5 THE COURT: Okay.

6 MR. LYNN: -- good afternoon. Michael Lynn and John

7 Bonds for Jim Dondero.

8 THE COURT: Oh, okay. Hello. How are you?

9 MR. LYNN: Well, thank you.

10 THE COURT: All right. Anyone else wishing to appear
11 at this time?

12 (No response.)

13 THE COURT: All right. We have a couple of matters
14 set on our calendar. A motion to extend the deadline for
15 removal of actions, to which I saw no written responses, and
16 then a third motion to extend exclusivity, and I saw a
17 Committee response to that.

18 I don't have on my hard calendar anything about a status
19 conference regarding mediation, but I found in our notes from
20 our hearing, I believe it was the UBS hearing in middle of
21 June, that I said, you know, we might want to talk about that
22 if we don't hear some rosy news or some developing positive
23 news today at the July 8th hearing. So we'll kind of put that
24 on the back burner and see if there's a need to talk about
25 that today.

1 All right. So, Mr. Pomerantz, are you going to start us
2 off?

3 MR. POMERANTZ: Yes, Your Honor. And actually, I had
4 some comments that sort of touched on a few of the issues you
5 talked about and I think it's apropos to talk about it in the
6 context of the motion to extend exclusivity, which I do note,
7 Your Honor, is not objected to.

8 We had asked in the motion for a 30-day extension and an
9 additional extension beyond that in increments of 30 days, up
10 to a maximum of 90 days, with the Creditors' Committee's
11 consent. We have read their response. We understand they are
12 accepting a 30-day extension, but wanted to put the Debtor and
13 I'm sure the Court on notice that, at the end of 30 days, they
14 don't anticipate any further extensions, which I think, based
15 upon the course of actions, will be just fine, because I
16 think, as I will report to Your Honor, we expect to be able to
17 file a plan by then.

18 But I thought I would take this time, Your Honor, and sort
19 of (audio gap) little context, and that is the (inaudible) to
20 give Your Honor just a brief update of the status of the case,
21 the status on the filing of the Debtor's plan, and as Your
22 Honor alluded to, the Debtor's thoughts regarding mediation,
23 because we have spent a lot of time since Your Honor first
24 raised the issue in the middle of June talking about it, and
25 we think we have a structure that has significant support from

1 the main parties in this case.

2 So, as I mentioned, Your Honor, at the hearing on June
3 30th, after stabilizing operations, the Board began to focus
4 on resolving the significant litigation claims that have been
5 filed against the estate. And the first step in that process,
6 Your Honor, is the Board wanted to commission an independent
7 analysis of those claims, not burdened by what had come before
8 it in connection with the analysis. So we spent a lot of
9 time, our firm did, providing detailed analysis on the major
10 claims against the estate, including the Acis claim, the UBS
11 claim, and the Redeemer claim.

12 Then the pandemic hit, and a lot of the Board's attention
13 was spent on dealing with the disruption to the Debtor's
14 business that was caused by the pandemic. However, during the
15 last couple of months, Your Honor, the Board has begun to
16 focus on engaging with UBS, Redeemer, and the Acis groups in
17 order to assess the ability to be able to resolve the claims
18 short of contested and time-consuming litigation. Because as
19 I mentioned to Your Honor on several occasions, the Board
20 intended, when it came in on January 9th, and I think has done
21 a good job, is changing the culture that had existed before,
22 the culture of litigation, to potentially a culture of
23 settlement and mediation.

24 And in that regard, Your Honor, I'm pleased to report that
25 the Debtor has reached an agreement in principle with the

1 Redeemer Committee regarding the allowance of the Redeemer
2 Committee's claim. The agreement is subject to resolution of
3 a few minor drafting issues, and the Debtor anticipates
4 seeking Court approval of a settlement in the near future.

5 With respect to Acis, Acis's claims, two weeks ago the
6 Independent Board made an offer to resolve the Acis claims.
7 At this point, has not heard back. Hopes to hear back from
8 Acis.

9 In the interim, the Debtor has also filed an objection to
10 the Acis claim, which it would intend to prosecute if it
11 cannot be resolved consensually, either before or in
12 connection with the mediation process that I will lay out that
13 we would propose to the Court in a few moments.

14 With respect to the UBS claim, Your Honor, the Board
15 believes that the Court's ruling on UBS's relief from stay
16 motion was a necessary first step before settlement
17 discussions could get off the ground, and the hope is that the
18 claim could be resolved through mediation, if not sooner, and
19 the parties discussing potentially different counterproposals.
20 None have been made yet, but it is the intention of the Board
21 to engage with UBS.

22 With respect to the mediation process, Your Honor, the
23 Board agrees with the comments that the Court made that
24 mediation could be a very useful tool and a catalyst to a
25 settlement. That would resolve the litigation that has

1 burdened this estate for many years.

2 Since the last hearing, Your Honor, I've had discussions
3 with both Committee counsel, Mr. Clemente, and counsel for
4 each of the Committee members regarding a mediation process
5 that I think, subject to Your Honor's concurrence, has broad
6 support among the major parties, just proving to Your Honor
7 that the parties can come together and agree on something in
8 this case.

9 There is consensus that the Court should order a mediation
10 that would encompass essentially two general areas. First,
11 the mediation would seek to resolve the claims of Acis and
12 UBS, to the extent the parties cannot reach agreement on their
13 own prior to the commencement of the mediation.

14 However, resolving claims against the estate is really
15 only one part of the equation. A true global resolution would
16 also (audio gap) the Debtor's estate may have against Jim
17 Dondero and related entities, claims that I'm sure Your Honor
18 recalls the Committee bargained for the ability to prosecute
19 in connection with the global settlement approved by Your
20 Honor in January.

21 I've spoken with Mr. Lynn, Mr. Dondero's counsel. I know
22 he's participating in the hearing. And he has indicated that
23 Mr. Dondero is willing to participate in a plan mediation
24 process to see if a global resolution can be reached.

25 The Debtor and the Committee have also discussed the names

1 of potential mediators, and subject, of course, to Your
2 Honor's approval, the Debtor and the Committee have reached
3 out to Judge Jones' clerk for the Southern District of Texas
4 and he has told us that he has the time and the willingness to
5 mediate.

6 We also believe that, if available, since there is a lot
7 in terms of mediation in this case, that it may be helpful to
8 have two mediators. And if Judge Isgur -- we haven't reached
9 out to him -- is also available, we believe that both of those
10 judges possess the qualities that this case would need to
11 resolve -- to give the best chance of resolving the claims and
12 the plan process in an efficient and a timely manner.

13 We would contemplate that the parties would submit fees to
14 the mediator by July 31st, and the mediation would occur
15 sometime in the second half of August.

16 Notwithstanding the mediation process, however, Your
17 Honor, the Debtor is moving forward towards expeditiously
18 filing a plan, which will not need to wait for mediation to
19 conclude. And in that regard, Your Honor, the Debtor and the
20 Committee have worked cooperatively over the last several
21 weeks to draft a plan that would allow the Debtor to emerge
22 from Chapter 11 as quickly as possible -- you know, 120 days
23 or so after it would be filed.

24 The Debtor and the Committee and its members recognize
25 that the administrative fees attending to the continued

1 administration of this case in bankruptcy is material, and
2 that one way to reduce them is to emerge from bankruptcy as
3 quickly as possible.

4 To that end, Your Honor, the Debtor is optimistic that it
5 will be able to file a plan by the end of the current
6 exclusivity period, which, if Your Honor grants the pending
7 motion, would be August 12th. And, at present, the plan
8 contemplates the creation of an asset monetization vehicle
9 that will seek to monetize the assets in an appropriate
10 manner.

11 The Debtor believes that the current plan is confirmable,
12 whether or not the Debtor is successful in resolving the large
13 claims against the estate, either consensually or in
14 mediation. Worst case, the claims litigation process can
15 proceed post-confirmation.

16 At the same time, however, Your Honor, the Independent
17 Board -- led by Mr. James Seery, who has testified before Your
18 Honor and who has been appointed as the Debtor's chief
19 executive officer, subject to Court approval, and that hearing
20 is scheduled for July 14th -- has also had positive
21 discussions with Jim Dondero regarding a plan structure that
22 would not only allow for the prompt exit from Chapter 11 but
23 could also inject some liquidity into the case that would
24 allow actual distributions to be made to creditors much more
25 expedited than perhaps waiting for the monetization of the

1 assets. And Mr. Seery continues to have those discussions
2 with Mr. Dondero, and he and the Board are cautiously
3 optimistic that they will bear fruit.

4 However, Your Honor, just to be clear, the Debtor intends
5 to file a plan by the expiration of exclusivity whether or not
6 Mr. Dondero is part of that plan, and his involvement will not
7 distract the Debtor from emerging from Chapter 11 as quickly
8 as possible.

9 So we feel we have presented some rosy news today in terms
10 of resolution of some of the claims and a path forward, that
11 we think this case is on a different trajectory than it was
12 quite some time ago, and we look forward to continuing a
13 dialogue with the parties before mediation and in mediation,
14 if Your Honor orders it, and hopefully can have a quick and
15 (inaudible) resolution of the case.

16 THE COURT: All right. I have a few questions, but
17 I'll turn to other lawyers to see what they have to say, and
18 their comments may answer some questions I have. Mr.
19 Clemente, go ahead.

20 MR. CLEMENTE: Yes, Your Honor. Thank you. Matthew
21 Clemente from Sidley on behalf of the Committee.

22 Mr. Pomerantz is correct with respect to exclusivity. As
23 we laid out in our papers, the Committee has no objection to
24 the additional 30 days of exclusivity through August 12th, and
25 the Committee sees no reason why a plan cannot be filed within

1 that time frame.

2 As we laid out in our papers, we at this time don't see
3 any reason for exclusivity to extend beyond August 12th. But
4 I do think that is consistent with the relief that the Debtor
5 is asking for.

6 To be sure, Your Honor, given the position of the
7 Committee and its constituency, we do not see any plan here
8 that gets done without our consent, frankly, and approval.
9 And we've made that point consistently to the Debtor, and we
10 continue to make that point. Filing a plan with which the
11 Debtor knows this constituency does not agree, frankly, we
12 think would be a waste of time and resources and will create
13 needless litigation, to which Your Honor expressed a strong
14 distaste for at the last hearing.

15 So, Your Honor, we will continue to work with the Debtor
16 in moving forward with a plan, and we are hopeful that the
17 Debtor will continue to understand the importance of working
18 cooperatively with the Committee to propose a plan the
19 Committee can support, as opposed to one it knows the
20 Committee will take issue with.

21 So, with that, Your Honor, again, we don't have any issue
22 or objection to the entry of the exclusivity order, but I did
23 want to make Your Honor aware of the Committee's views.

24 Second, Your Honor, with respect to mediation, the
25 Committee is supportive of the mediation proposal Mr.

1 Pomerantz laid out. Mr. Pomerantz touched on it, and the
2 Committee has been consistently clear, however, that the
3 mediation should not distract from the task of moving forward
4 with a plan, a plan, as Mr. Pomerantz told you, will be
5 designed to be confirmable even without claim resolution or
6 Mr. Dondero's involvement.

7 The Committee believes that it is important that the
8 claims be addressed first in the mediation, the claim
9 resolution issues, as they believe that that is the
10 appropriate sequencing. It can all happen as part of the same
11 mediation, but the Committee feels very strongly that the
12 claims should be addressed first in the context of that
13 mediation.

14 And with respect to Mr. Dondero's involvement, the
15 Committee is not opposed to having his involvement and the
16 Committee will negotiate in good faith during the mediation
17 and will be looking to the mediator to help determine the most
18 effective way to involve Mr. Dondero in the process -- again,
19 with the very strong view that the claims should be addressed
20 first in the context of that mediation.

21 That is all I have, Your Honor, but I'm happy, obviously,
22 to answer any questions you have.

23 THE COURT: Okay. Let's hear from anyone else. Any
24 other lawyers want to weigh in?

25 MS. PATEL: Good afternoon, Your Honor. Rakhee Patel

1 on behalf of Acis. And I will endeavor to not tread the same
2 ground that Mr. Pomerantz and Mr. Clemente have. But just to
3 kind of -- probably more so for the benefit of others that are
4 participating in the hearing, because I know Your Honor,
5 you're familiar with our matter, I hit on the two pieces of
6 litigation that I think, you know, bear discussing in the
7 context of mediation. And by the way, just to be clear, I
8 have -- I have no position different than Mr. Clemente with
9 respect to exclusivity.

10 But as Your Honor is aware, there is a lawsuit involving
11 Acis and Highland Capital Management. It's an adversary.
12 It's been through various permutations, the first of which
13 started roughly two years ago. I think we just passed the
14 two-year anniversary of the first adversary that all ended up
15 being consolidated down and added to over time. And
16 immediately prior to Highland's bankruptcy, that adversary was
17 effectively abated by virtue of the withdrawal of the
18 reference motion that was filed and argued and the Court was
19 writing what I understand to be a lengthy Report and
20 Recommendation in connection with. And that was then
21 ultimately stayed by Highland's bankruptcy case in October of
22 2019.

23 As Mr. Pomerantz indicated, Highland has now objected to
24 Acis's proof of claim. That just came roughly about two weeks
25 ago. And keeping in mind, Your Honor, that Acis's proof of

1 claim is its complaint in that adversary that I just
2 referenced.

3 At present, Acis's response is due somewhere around July
4 23rd, I believe, and there is a hearing scheduled on that
5 claim objection on August the 6th. So a hearing has been set
6 imminently.

7 Mr. Pomerantz and Mr. Couch were very kind to put in a
8 peremptory call immediately prior to the filing, and they
9 advised that they were going to be filing that claim objection
10 and that they were going to be setting it for hearing on
11 August the 6th, and I advised them that I had planned on being
12 on vacation that week, which is all a very long way of saying,
13 Your Honor, I think we're going to have to, in light of
14 mediation, work up an alternate schedule.

15 And I'm confident that we'll be able to reach that
16 alternate schedule, but we'll be keeping the mediation and its
17 scheduling and the parties with schedules in mind. Because it
18 doesn't seem to make an awful lot of sense to me to be
19 litigating the claim objection before we get to mediation.

20 On the -- on other fronts, and, again, you know, I know
21 Your Honor presided over the Acis case, obviously, for the
22 last two and half years, commencing with the involuntary
23 bankruptcy that touched off that case. But on the -- on the
24 related front, is, as I advised the Court at the status
25 conference during the Acis status conference, there was a suit

1 that was filed by Acis against Mr. Dondero, certain of
2 Highland Capital Management's employees, the former treasurer,
3 Mr. Waterhouse, as well as CLO Holdco, Grant Scott, and
4 certain of the Independent Directors of Highland CLO Funding.

5 And, you know, as Your Honor may recall, that suit was
6 filed to get ahead of the 546 or -- and/or Section 108 time
7 period cutoff. But that suit is now pending. In connection
8 with that litigation, Your Honor, there has been -- there are
9 a couple of answers that were filed and there's -- there have
10 been a panoply of motions to dismiss filed as well on various
11 grounds: Personal jurisdiction -- ranging from personal
12 jurisdiction, subject matter jurisdiction, 12(b)(6) grounds.
13 Kind of a smattering of a whole lot of things. And all of
14 that bundles together, Your Honor, into a whole lot more
15 litigation.

16 So, in thinking about that piece of litigation and its
17 overall impact on where the parties are, I endeavored to reach
18 out to all of the counsel, the various counsel for the
19 constituent groups therein to talk about what we were going to
20 do with that piece of litigation, certainly now that we are
21 discussing mediation. And I've had various positive at least
22 preliminary discussions with Mr. Bonds, counsel for Mr.
23 Dondero, and then also Mr. Kane, who is counsel for CLO Holdco
24 and Grant Scott, and they were generally receptive to the
25 concept of an abatement, pending mediation, just, again, so we

1 can put a pin in the litigation, see where we can get to in
2 the context of mediation, if some sort of resolution can be
3 reached that advances the collective ball and hopefully helps
4 to, if not resolve the litigation, perhaps reduce or certainly
5 streamline it.

6 I've reached out to, by email, to counsel for certain of
7 the other employees who are, at present, evaluating that --
8 the request for an agreed abatement, and I've also reached out
9 via email and phone to counsel for the Independent -- the two
10 Independent Directors for Highland CLO Funding. That's Mr.
11 Maloney and Ms. Matsumora. And I've not heard from them as
12 yet.

13 So, in connection with that, Your Honor, likely, at least
14 as of right now, my thought is that we would basically be
15 filing a motion tomorrow seeking to abate that piece of
16 litigation in connection with the mediation that we're
17 discussing today, and, of course, depending upon the outcome
18 of today. And we may seek to expedite that motion to abate if
19 the parties don't agree to extend at least present responsive
20 deadlines, et cetera. Because, again, it doesn't seem to make
21 an awful lot of sense to be continuing with litigation while
22 everyone is trying to get into resolution mode.

23 So, Your Honor, as you know, Acis has tried to remain
24 consistently in resolution mode, but we hear Your Honor loud
25 and clear and we will endeavor and try and streamline and at

1 least give the best-faith effort at trying to get things
2 resolved as expeditiously as possible as we can.

3 THE COURT: Well, if that is the case, why haven't --
4 why hasn't the Debtor heard back from you on the offer they
5 made two weeks ago?

6 MS. PATEL: Your Honor, the offer was made after --
7 shortly after the claim objection was filed. The claim
8 objection itself, Your Honor, is a two-page claim objection.
9 And, frankly, if I turn my camera around, you'd see that I am
10 surrounded by paper. We are analyzing the claim objection as
11 filed.

12 Your Honor, in terms of talking about Acis's claim, Acis,
13 as you know, has been -- has been attempting to discuss its
14 claim, and even during Acis's bankruptcy case, we engaged in
15 two different mediations to try and resolve the overarching --
16 a lot of the facts that -- and circumstances that underlie the
17 complaint, and those were unsuccessful.

18 Shortly after the Board was appointed -- and by shortly, I
19 mean I think the hearing was in the morning; we ended up -- I
20 and Mr. Terry ended up having lunch with the Board and the
21 Board's counsel to again being fostering a relationship and to
22 begin discussing Acis's claim in earnest. And we had a
23 lengthy meeting at my offices -- if my memory serves, it was
24 in early February -- with Mr. Nelms and with Mr. Seery. And
25 then, frankly, didn't hear a whole heck of a lot with respect

1 to our claim or any type of negotiation. So the first thing
2 that we heard back with respect to it was just a couple of
3 weeks ago, and Your Honor, we --

4 (Audio interruptions.)

5 THE COURT: Okay.

6 MS. PATEL: We will --

7 THE COURT: Someone needs to put their phone on mute.
8 Okay. Thank you.

9 MS. PATEL: Thank you, Your Honor. We have
10 endeavored -- we have rolled up our sleeves and we are
11 analyzing the claim objection and trying to narrow the issues.
12 And we will be providing a substantive response back to the
13 Debtor as quickly as we can.

14 The settlement proposal, frankly, Your Honor, came in
15 while Mr. Terry was on vacation, so we did have a little bit
16 of time lapse on that.

17 THE COURT: Okay. Where are people going on vacation
18 these days? I can't get anywhere.

19 MS. PATEL: Your --

20 THE COURT: I've had to cancel a couple of vacations.
21 I don't know where people are going.

22 But okay. Well, I'm very disappointed, nevertheless, to
23 hear that there's been zero response in two weeks.

24 Anyone else wish to make a comment before I get to some
25 questions I have?

1 MR. LYNN: Your Honor, Michael Lynn for Jim Dondero.

2 This is just a comment. The Acis v. Dondero, et al. suit
3 parallels in many respects the objection to the claim filed by
4 the Debtor with respect to the Acis claim. We would probably
5 seek to join in the objection, if for no other reason than to
6 preserve our ability to address factual issues that the two
7 matters have in common, to ensure against a future preclusive
8 effect.

9 THE COURT: Okay. Anyone else?

10 MR. POMERANTZ: Your Honor, this is Jeff Pomerantz
11 again. I have a couple of comments with respect to Ms.
12 Patel's. Would you like me to address them now?

13 THE COURT: Go ahead. Uh-huh.

14 MR. POMERANTZ: Okay. Your Honor, I think it's
15 helpful to the Court to understand sort of the big picture in
16 terms of our discussions with Acis. Prior to making a
17 settlement proposal, which, incidentally, occurred before the
18 claim objection was filed, a week or so ago -- well, actually,
19 a few week before that, we had offered to sit down and meet
20 with Acis with respect to their claim.

21 The initial response we received back was that, unless the
22 Guernsey lawsuit was dismissed, they were not interested in
23 sitting down and meeting with us. We were disappointed in
24 that because, as we have consistently maintained since the
25 Board has taken over, the Board does not control that Guernsey

1 lawsuit. But in any event, that was what Acis's position was.

2 Subsequently, a few weeks after that, we were told that
3 Acis would be willing to sit down and have a discussion with
4 us about their claim, similar to the discussions we had with
5 Redeemer and similar to the discussions we had with UBS.

6 To make that discussion most productive, two and a half
7 days into that -- I certainly realize two and a half days is
8 not a lot of time -- we provided Ms. Patel and Mr. Shaw with a
9 draft of the objection, which was mostly identical to the one
10 that got filed. There was a couple of minor changes. We then
11 had a discussion with them. I'm not going to, of course,
12 reveal the substance of the discussion, but the purpose was to
13 go over our thoughts before it was filed. And we were told,
14 as Ms. Patel said, that Mr. Terry was on vacation, and we
15 didn't expect, after putting, as Ms. Patel said, a roughly 60-
16 page objection, that they would be able to turn it around.
17 Several days later, we called up Ms. Patel and Mr. Shaw,
18 communicated orally a settlement proposal, told them that a
19 settlement -- told them that an objection would be filed and
20 offered to, at their convenience, to sit down and talk about
21 the claims.

22 We are still hopeful, Your Honor, in light of Ms. Patel's
23 comments that we will receive a response, that we will receive
24 a response. And to the extent we can narrow the issues down
25 and -- before mediation, I think those ought to be helpful.

1 We also spoke to Ms. Patel. She had indicated she had a
2 vacation scheduled. At the time, I think we were starting to
3 talk about mediation. And the Debtor has no intention of
4 mediating while litigating. We don't believe that's an
5 effective use of people's time. So while it is on for August
6 6th, to the extent Your Honor does order us to mediation and
7 mediation occurs at the end of August, we would anticipate
8 that the hearing on the claim objection would be set for some
9 time in September. But we are encouraged.

10 We also, after the additional litigations were filed by
11 Ms. Patel against Mr. Dondero and certain of the Debtor's
12 employees, who are still current employees, we had suggested
13 that it might make sense to have an abatement and a stay of
14 those proceedings, given the interrelatedness of those
15 proceedings and the matters in Acis's claim objection. They
16 initially rejected that, but I'm very happy to hear that their
17 view now is that it does make more sense to try to see if we
18 can coalesce around a mediation process without satellite
19 litigation occurring.

20 So we are -- we are, to the -- we're not a party to that
21 litigation. We weren't asked. The first time we had been
22 told that that litigation would be stayed was I heard it just
23 a few minutes ago. But we are very much in support of that
24 and hope that the parties can coalesce around a mediated
25 resolution as opposed to a litigated resolution.

1 THE COURT: Okay. Remind me again the amount of
2 Acis's proof of claim.

3 MR. POMERANTZ: I will let Ms. Patel answer that
4 because it's a little unclear and there are some -- been
5 disputes in terms of who said what about it. So I would ask
6 Ms. Patel to remind the Court of what they're claiming.

7 MS. PATEL: Your Honor, on the face of our -- of the
8 filed proof of claim, it states that the claim is in excess of
9 \$75 million.

10 THE COURT: Okay. All right. Anyone else wish to
11 make a statement today?

12 (No response.)

13 THE COURT: All right. Well, as I said, I have a few
14 questions, some I came in here with and some sort of popped up
15 in my brain as I heard the presentations today.

16 Mr. Pomerantz, I mean, I feel in many ways I have sort of
17 only a 30,000-foot level understanding of certain things going
18 on outside of the courtroom. And here's what I mean by that.
19 You made a comment that the Board, you know, had to deal with
20 the destruction of the Debtor's business caused by the
21 pandemic. I think those were your exact words. I would like
22 to understand that better, because there was indeed a theme in
23 your motion to extend exclusivity of, you know, one of the
24 reasons we're not where we would like to be at this juncture
25 is, among other things, you know, we had the pandemic hit.

1 I don't have a full appreciation of how that has slowed
2 things down. I mean, I know there was one specific comment
3 that Jefferies issued margin calls and so that caused
4 liquidity issues. But other than that, I'm not -- I mean,
5 yes, the capital markets fell off a cliff in March, but my
6 impression, naïve as it may be, is that things have kind of
7 bounced back after March. So, tell me how the pandemic has
8 had an effect in trying to get to resolution of issues and a
9 plan.

10 MR. POMERANTZ: Absolutely, Your Honor. So, as I
11 think Your Honor knows in the calls, the Debtor's primary
12 assets consist of two things. One, public stock that it
13 trades through a proprietary account in its select account,
14 and other stocks, public stocks, which, as Your Honor
15 mentioned, the pandemic roiled the stock market, and for the
16 period of time in March and early April, given the fact that
17 the Debtor had margin accounts, a substantial amount of the
18 time spent primarily by Mr. Seery, who effectively started
19 becoming a CEO at that time -- we'll deal with his motion next
20 week -- if it wasn't for his efforts, his expertise and
21 acumen, the result could have been a lot worse.

22 So he's been spending a lot of time in dealing with
23 Jefferies, because, as Your Honor is aware, with margin
24 accounts, there is really limited protections that are
25 available under the Bankruptcy Code, and the automatic stay

1 and other protections don't necessarily apply, and Jefferies
2 could have turned around and sold all the stock. So the value
3 that was preserved took a lot of time and effort. That was
4 one area.

5 The second area, Your Honor, is the Debtor's assets also
6 include interests in private equity investments. A lot of the
7 Debtor's funds that it manages and which the Debtor has
8 significant interest in have a variety of different companies.
9 Each of those companies were dealing with the pandemic in
10 their own different ways, whether it was addressing issues of
11 applying for PPP loans, whether it was addressing employees,
12 there's capital structure issues, each of them are potentially
13 a Chapter 11 making all of their own.

14 So, again, the type of effort and time that it took --
15 again, principally, Mr. Seery, acting as CEO, but also, you
16 know, the other Board members -- was a lot, to stabilize those
17 investments and to make sure that they were not lost through
18 actions by lenders or whatnot.

19 And the third aspect is the Debtor manages funds, still
20 manages funds and actively manages funds. And managing funds
21 that have principally financial-type assets in this
22 environment has been extremely challenging.

23 As Your Honor accurately mentions, over the last couple
24 months the stock market has come to a little more stability.
25 Whether that will remain is anyone's guess. And during that

1 time, that's when a lot of the efforts that I've mentioned in
2 terms of the claims work has been put back on. But there was
3 a month or two period during the pandemic, the early stages,
4 that really impacted the Debtor's ability, and it was all-
5 hands-on-deck to address those issues.

6 At the same time, though, Your Honor, our firm was working
7 on the extensive analysis that was required to, for example,
8 address all the legal issues in connection with what I think I
9 recall is a 34-count complaint by Acis; for our firm to get up
10 to speed with respect to the UBS claim, which, as Your Honor
11 heard a few weeks ago, spanned 11 years of litigation; and
12 also to address the issues with Redeemer and be in a position
13 that, as I mentioned before, we have reached a settlement.

14 So, there were a lot of things going on. We had hoped to
15 be where we are now a couple of months ago. But I think the
16 Board, under the strong leadership of the Board and the strong
17 leadership of Mr. Seery, has effectively stabilized the
18 operations, and we have now been able to, the last couple of
19 months, really turn to how do we get out of this case, as
20 evidenced by the comments I made with the substantial effort
21 that's been made in the plan and the substantial progress I
22 think has been made on putting the Board in a position to sit
23 down and have meaningful discussions with creditors
24 (inaudible).

25 THE COURT: Okay. I mean, again, I don't -- I don't

1 have a witness here, but, well, remind me, what do we have set
2 July 14th?

3 MR. POMERANTZ: So, July 14th, Your Honor, we have
4 two motions. One is a motion to appoint Jim Seery as the
5 chief executive officer. Again, I will talk more about it in
6 connection with that hearing. If Your Honor recalls, as part
7 of the term sheet in January, there was a recognition by the
8 Committee and by the Debtor that instilling the Board was
9 obviously critical. It was critical to avoid this case going
10 into a different direction. And I think there was a
11 recognition that it would be important that somebody stepped
12 up and become the CEO.

13 It was too early to tell whether that somebody would come
14 from the Debtor's board, the newly-installed board, or someone
15 else, but there was a contemplated process. And while the
16 first couple of months of the case were spent, again, on
17 stabilizing operations, I think starting in mid-March and as
18 we went on it was pretty clear that, of the three people on
19 the Board, while all of them are providing invaluable services
20 in leading the Debtor to where it is now, Mr. Seery was
21 stepping up primarily because of his significant operational
22 background in connection with these types of assets. And he
23 has essentially been working a couple hundred hours a month or
24 thereabouts over the last few months doing the things I just
25 alluded to, and the Debtor has determined to seek his

1 retention as a CEO. Has had discussion with the Committee on
2 terms. They're not all finalized or resolved yet, but that
3 hopefully will be uncontested by the 14th.

4 Mr. Seery will also undertake the role of chief
5 restructuring officer, which, as Your Honor recalls, we
6 already have Brad Sharp as -- from DSI as chief restructuring
7 officer. They will essentially become financial advisor. DSI
8 has provided a valuable role to the Board and to counsel in
9 this case. But given that Mr. Seery will, if the Court
10 approves the motion, become the CEO, it would make sense that
11 he be the CRO as well, so it's a separate motion to
12 essentially transmute the DSI representation from a CRO
13 representation to a financial advisor representation. So the
14 two matters are on, Your Honor, but I've --

15 THE COURT: Okay.

16 MR. POMERANTZ: -- given Your Honor a preview.

17 THE COURT: Well, I'd like to hear testimony from
18 both of them on the 14th, Mr. Seery and Mr. Sharp.

19 Again, I -- I mean, ideally, we would have evidence at a
20 hearing on a motion to extend exclusivity. And I understand
21 you didn't have any objections, you worked out essentially an
22 agreement with the Committee. So, I mean, I understand you
23 didn't necessarily think that evidence would be needed.

24 But I, again, you know, my understanding is 30,000-foot
25 level. I'm just trying to understand, you know, with three

1 wonderful independent board members and with a CRO and all
2 these fantastic professionals, it just feels like we -- you
3 know, multiple things could be going on at once, and I kind of
4 feel like, you know, January 9th, six months ago, we had the
5 independent board installed. We had the protocol order with
6 the Committee worked out, you know, which we call it a
7 settlement, but it was mostly a mechanism to allow the
8 Committee to have oversight and monitoring. And it just feels
9 like, January 9th, okay, then we were in a position to really
10 start focusing on these big claims. We knew it was Acis and
11 we knew it was UBS, even though the bar date hadn't hit. And
12 it feels like to me we've -- I shouldn't say bought a lot of
13 time, but a lot of time has gone by for not as many results as
14 I would like.

15 Tell me why I'm being unfair. And, again, I go back to,
16 okay, if it's the pandemic, help me to understand what it was
17 about. You know, I kind of got scared by that phrase you
18 used, destruction to the Debtor's business caused by the
19 pandemic. I mean, I guess part of what I'm getting at here
20 is, Has there been a massive loss of value by the Debtor
21 caused by the pandemic, and that has been sort of a halting
22 event to being able to talk about a plan?

23 MR. POMERANTZ: Well, Your Honor, I believe, and I
24 actually went back to my notes, and I think I said disruption.
25 I didn't say destruction.

1 THE COURT: Oh.

2 MR. POMERANTZ: And if Your Honor heard destruction,

3 --

4 THE COURT: I heard destruction. Maybe I --

5 MR. POMERANTZ: -- or if I misspoke, I apologize.

6 But there wasn't any implication of a destruction in the
7 Debtor's business. Again, financial assets did take a hit.
8 There were some concerns in how, you know, to monetize those
9 assets, the stock assets, and working through the Jefferies
10 issues as well as the private equity issues.

11 And look, Your Honor: When the Board took over on January
12 9th, I think they recognized soon after their appointment that
13 there was a lot of stuff to do. There was -- it was a really
14 steep learning curve. Highland, as people have described it
15 in the hearings in this case, is an extremely complicated
16 structure of companies.

17 So, yes, perhaps things could have moved a little quicker.
18 Your Honor does recall the early stages of the case, we dealt
19 with motions for the appointment of a trustee by the United
20 States Trustee. There was other litigation over retention of
21 professionals and others, which, you know, Your Honor has
22 commented about in the past, and I think we're past that and
23 beyond that. But there has been a lot of work.

24 And, again, on the claims work, the Board, to be
25 independent, did not want to rely on the employees of the

1 Debtor in evaluating the various claims. So that took a lot
2 of time and effort.

3 So, you know, look, I think you could look at it two ways.
4 One way you could look at it, that it's been pending six
5 months and we don't have a plan yet, we don't have the claims
6 resolution. I would -- and I tend to be a glass-is-half-full
7 type of person -- I think the message that we are hearing
8 today is that the plan process is on track. We have resolved
9 one of the three major litigation claims. We have coalesced
10 around a mediation process that people can get behind and
11 hopefully have concluded at the end of August. That the
12 process is going to include not only the inbound claims
13 against the company but potentially the claims by the company
14 against some of the targets.

15 I think there is reason for optimism at this point in the
16 case. And while, you know, I wish it was May and we were
17 having this discussion, not July, I still think there has been
18 a lot of groundwork that was prepared to get to the place
19 we're here. And, you know, the Board is laser-focused on
20 getting results, and getting results quick.

21 THE COURT: Okay. Let me follow on about the
22 agreement in principle on the Redeemer claim. They had an
23 arbitration award. So that doesn't sound like a major
24 milestone to me, to be honest. Tell me why I'm wrong about
25 that. They had an arbitration award.

1 MR. POMERANTZ: Sure. Your Honor, they do have an
2 arbitration award, but there are several aspects of the
3 arbitration award that needed negotiation and resolution. A
4 significant part of the arbitration award was the Debtor's
5 obligation to repurchase some Cornerstone shares that Redeemer
6 had for a certain dollar amount. Well, obviously, the Debtor
7 in bankruptcy doesn't have the ability to write a check to
8 repurchase it.

9 There was issues on the Debtor's ability to ultimately
10 recoup different fees that the arbitrator had determined had
11 been taken inappropriately that had to be repaid, and to what
12 extent the Debtor would be entitled to a credit.

13 So, by no means am I telling Your Honor that the Redeemer
14 claims and issues were as difficult as the Acis and UBS claims
15 and issues. But there were a variety of issues, there were a
16 variety of matters that had to be discussed. You know, we
17 worked cooperatively with Redeemer and with Jenner & Block.
18 And we, again, have reached a resolution that is going to
19 provide a face amount of a claim which is materially less than
20 the claim that was on file.

21 But Your Honor, by no means am I trying to convince Your
22 Honor that this was the same type of work that needed to go
23 into -- resolve the others. But having said that, getting
24 that claim resolved, which the Debtor believes is the largest
25 legitimate claim against this estate, I think is an important

1 step forward that will lead towards hopefully the confirmation
2 of a plan and hopefully spur on efforts from all the parties
3 -- Acis, UBS, and the Debtor -- to try to make the same type
4 of progress in their claims.

5 THE COURT: Okay. All right. My next question is, I
6 mean, you've talked about -- I think it was the previous
7 hearing I heard you say a term sheet had been provided to the
8 Committee or going back and forth. I mean, help me to
9 understand what you're envisioning the plan is going to look
10 like in this case. I mean, I know there's a wide swing
11 between UBS being owed a billion dollars and being owed
12 nothing, and Acis being owed \$70 million versus, you know,
13 nothing or wherever you think the number should be, or the
14 Debtor's board thinks the number should be. I know, you know,
15 these are giant questions. But can you answer for me what
16 you're envisioning?

17 I mean, again, one of the pleadings said, you know, the
18 plan should provide for orderly monetization of assets,
19 provide for a process for resolution of claims, and pursue
20 causes of action. I mean, again, that's kind of 30,000-foot
21 stuff. Tell me what you're envisioning.

22 MR. POMERANTZ: Sure. So, Your Honor, just to take a
23 step back, we -- this case was filed not necessarily for the
24 traditional reason that cases are filed. There weren't operational
25 fixes that needed to be done at the business.

1 THE COURT: Right.

2 MR. POMERANTZ: There wasn't a capital structure that
3 needed to be revised.

4 THE COURT: Right.

5 MR. POMERANTZ: Right? So, as everyone knows, the case
6 was filed because the Redeemer Committee got its arbitration award,
7 to prevent execution on that. Okay?

8 We also had a very complicated business. There are not many, I
9 think, examples of asset managers around the country of the type of
10 Highland Capital that actually go through a Chapter 11. And it
11 caused a tremendous amount of upheaval, of issues. Your Honor,
12 we've been dealing with the protocols on a daily basis with the
13 Committee. Your Honor has seen some of that.

14 So while the hope was, from the beginning of the case, to end
15 this case in a nice, tidy bow, get a resolution that would not only
16 resolve everyone's claims but also try to resolve the claims that
17 the estate had against third parties, as time was going by the
18 parties realized that there was nothing more bankruptcy could
19 provide this company. This company right now has litigation issues
20 to deal with that can be resolved with the help of the Bankruptcy
21 Court, as appropriate, in connection with the claims process. And
22 the Board -- and the Committee, for that matter -- were looking at
23 the substantial amount of fees that were being incurred by the
24 Debtor professionals and the Committee professionals which were
25 draining liquidity from the company and started to think, How can we

1 exit this case? Even if we can't get what has been referred to by
2 people as a grand bargain, how can we exit this case quickly and
3 efficiently?

4 So what really has to be done in terms of exiting the case?
5 Coming up with a way to monetize the assets, a structure in which
6 those assets can be monetized; not doing anything in the context of
7 a plan process that would in any way interfere with the
8 estate's obligations under the Advisers Act with the SEC or
9 otherwise; and coming up with a governance structure of who's
10 going to govern that.

11 So the plan that is currently contemplated -- and it's
12 more than a term sheet, Your Honor. We have had numerous
13 versions of the plan go back and forth. We are right now
14 waiting. The pen is in the hand of the Committee. We think
15 we are very close to having a form of a plan and a form of a
16 disclosure statement that would essentially contemplate some
17 type of trust vehicle that would monetize the assets. And the
18 structure of how that trust would work, whether it's one
19 trust, whether it's two, whether it's one trustee, whether
20 it's two, how that trust would be governed, who would be on
21 the governing board: Those are all issues that are currently
22 being worked out.

23 At the same time, the company is doing a thorough analysis
24 of every contract and every asset, to make sure that
25 assignment provisions and contract provisions and regulatory

1 issues, that we don't somehow trip up in connection with the
2 plan process.

3 So, essentially, at its core and at its minimum, it will
4 be transferring the assets into a monetization vehicle, some
5 type of trust vehicle, which, again, the corporate and
6 regulatory lawyers are working with us, with the bankruptcy
7 lawyers, to figure out the appropriate way, given the nature
8 of the Debtor's business, having an oversight board that has,
9 you know, creditor support. And if you ask Mr. Clemente,
10 it'll be total creditor identification of the people, which we
11 are in discussions of what the Board looks like after. And
12 monetization over time, and a way to resolve the claims over
13 time.

14 So that is essentially the concept. Again, to the extent
15 we can resolve the claims soon, to the extent we can work on a
16 negotiation with Mr. Dondero to bring in liquidity so that
17 creditors will not have to wait for the monetization of the
18 assets, which a lot of these assets are not assets that are
19 easily monetizable and it will take some time. But it is --
20 the Debtor feels strongly and I think the Committee feels
21 equally as strongly that emerging from Chapter 11 with some
22 type of vehicle to monetize the assets, governance and
23 control, and a way to resolve remaining claims, that is the
24 minimum that can and should be accomplished and that the
25 Debtor is committed to accomplishing in short order.

1 If something else comes out of it where we get more,
2 again, where the claims are resolved or where we have a grand
3 bargain with Mr. Dondero, that's something we're going to
4 strive for. But at a minimum, it needs to be an asset
5 monetization vehicle, governance, and a way to -- a structure
6 to resolve claims.

7 THE COURT: Okay. Asset monetization vehicle. You
8 know, subject to regulatory lawyers and corporate lawyers
9 figuring out the exact mechanics, you're saying essentially
10 put the business of Highland into a trust or trusts, and then,
11 I guess, from cash flow of the business over time, the
12 creditors would be paid? Or are you saying something more
13 than that?

14 MR. POMERANTZ: Well, again, I think it's on an
15 asset-by-asset basis. And, you know, Mr. Seery, you know, is
16 -- has become very familiar with all the assets, now has a --
17 ideas in mind which he's shared with the Board on how to best
18 monetize the assets. Some assets, there may be a quick sale.
19 Some assets, it may be over time. So it's a combination.

20 This is not going to be a fire sale of the Debtor's
21 assets. It's not in the best interest of the Debtor, we
22 believe. It's not in the best interest of the creditors. We
23 don't think anyone is in favor of that. It's dealing with
24 each of the assets in an appropriate manner and figuring out
25 how to monetize them, recognizing that given -- even though

1 the stock market has bounced back, the market for privately-
2 owned businesses may not have bounced back as much.

3 So it's figuring out with the appropriate people,
4 appropriate governance structure, how best to monetize those
5 assets, recognizing that creditors want to be paid and they're
6 -- they don't want to be in the business of long-term holds.
7 So, the Debtor gets that. But it's really being a thoughtful
8 approach on how to get the best value from those assets.

9 THE COURT: Okay. There's nothing, though, being
10 discussed as far as a big chunk of cash distribution up front,
11 unless Dondero comes up with it?

12 MR. POMERANTZ: Well, potentially. I mean,
13 potentially, Mr. Dondero is a potential source of liquidity.
14 There are some significant assets that may be able to be
15 liquidated sooner rather than later. So it's something that's
16 in discussion.

17 But the lion's share of the value for creditors is likely
18 going to come over time, unless there is someone who, like Mr.
19 Dondero, who is essentially willing to buy back the company.
20 And that is something that's being explored.

21 So, look, we've had a lot of transparency with the
22 Committee. We have weekly meetings, the Board and the
23 Committee. We just started a few weeks ago. I think the
24 professionals are working together. They understand what the
25 assets are in the estate. So, to that end, I think we have

1 been working very cooperatively with our creditors over the
2 last few months and we're just seeking to do it the best way.

3 So nothing I've said today, nothing, you know, should come
4 as and will come as a surprise to the Committee, but we're
5 working better, recognizing that ultimately the creditors want
6 to be paid, and doing that in an appropriate manner and a
7 thoughtful manner is what the Debtor is committed to do with
8 its partner, the Committee, in this process.

9 THE COURT: Okay. Sort of jumping back, I forgot to
10 ask earlier when we were talking about Acis: Has the Fifth
11 Circuit rescheduled oral argument on the appeal of the Acis
12 confirmation order and order for relief?

13 MR. POMERANTZ: I believe -- Your Honor, maybe Ms.
14 Patel would know off the top of her head.

15 THE COURT: Ms. Patel?

16 MS. PATEL: Your Honor, it was -- it was briefly -- I
17 -- and I say briefly, it was briefly we had -- we got a notice
18 at some point, I believe in early June, that the Fifth Circuit
19 had reset oral argument. And then approximately, I can't
20 remember exactly, but it was like, I don't know, a week or
21 maybe ten days later, we got a notice that it was cancelled
22 again. We have not received notice that it is rescheduled, so
23 it is still pending. But it has not been taken off oral -- it
24 has not been taken off oral argument at some juncture.

25 THE COURT: Okay. Well, I acknowledge that that is a

1 pandemic disruption for sure. It would have been nice to have
2 that resolved one way or another by now.

3 MS. PATEL: Agreed, Your Honor. We were trying to
4 figure out, frankly, in the week to ten days that it took from
5 the scheduling to how it was cancelled, exactly how our team
6 was going to get down to New Orleans. And the -- I think the
7 leading contender was to rent an RV and drive down so we could
8 safely get there. So it certainly has been a casualty of the
9 pandemic.

10 THE COURT: Okay. All right. Two more questions.
11 And this one has been a bit of a tough one for me to decide
12 whether I should broach this topic or not. You know, I read
13 the newspapers, the financial papers, just like everyone else,
14 and I saw a headline that I wished almost I wouldn't have
15 seen, and it was a headline about Dondero or Highland
16 affiliates getting three PPP loans. And, you know, I'm only
17 supposed to consider evidence I hear in the courtroom, right,
18 or things I hear in the courtroom, but I've got this
19 extrajudicial knowledge right now thanks to just keeping up on
20 current events. I decided I needed to ask about this.

21 What can you tell me about this, Mr. Pomerantz? I mean, I
22 assumed, from less-than-clear reporting, that it wasn't
23 Highland Capital Management, LP, but I'd like to hear anything
24 you can report about this.

25 MR. POMERANTZ: So, look, Your Honor, the first I

1 could say is that, to my knowledge, Highland Capital, the
2 Debtor, has not obtained a PPP loan. I know there have been
3 discussions with certain funds that basically have certain
4 assets, private operating companies, about obtaining PPP
5 loans. I don't have the specifics for Your Honor. I'm happy
6 to provide that.

7 Of course, to the extent Mr. Dondero, on any of his
8 affiliated funds that are under the control of the Debtor, I
9 would have no way of answering that, but I'm happy to follow
10 up with that with the Board and report back to Your Honor in
11 whatever appropriate manner you felt to obtain that
12 information.

13 THE COURT: Okay. Well, let's have a report on that
14 on the 14th when we come in. You know, maybe Mr. Seery or Mr.
15 Sharp or some other person. But you can probably imagine the
16 different things going through my brain. You know, well,
17 first, let's see if it was -- you know, I don't -- again, I'm
18 not expecting it to be Highland Capital Management, LP. I
19 would be beyond shocked if, you know, that somehow happened
20 when they're in bankruptcy. And, you know, I think it would
21 require a 364 motion, just like any other borrowing, although
22 I know it's kind of a forgivable loan. Strange bird.

23 But then if it's some affiliate of Highland, I still feel
24 like we need some transparency and disclosure on that. I
25 mean, I -- and who were the human beings behind it. It just

1 raises a lot of questions in my brain. Anything else?

2 MR. POMERANTZ: Your Honor, would you mind saying
3 what newspaper you found it in? Because not everything one
4 reads in the newspaper is accurate, but we will definitely --

5 THE COURT: Oh, yeah. I know --

6 MR. POMERANTZ: -- follow up on it and --

7 THE COURT: Fake news really is a thing.

8 MR. POMERANTZ: I didn't say fake news.

9 THE COURT: Oh, I know, I know. It's not really a
10 good term. But *Business Insider*? Is that reputable? Or no?
11 I thought I saw it in one of the local papers, too. I mean,
12 someone tell me if that's, --

13 MR. POMERANTZ: We -- we --

14 THE COURT: -- you know, something unreliable.

15 MR. POMERANTZ: We will investigate it, Your Honor.
16 I don't know what confidentiality restrictions would be on
17 whether if any of those entities -- but we will get the
18 information. If there's any concern on confidentiality,
19 perhaps we could have an *in-camera* on that. But before we get
20 ahead of ourselves, let me broach the issue with the Board and
21 Mr. Sharp and then be in a position to act and respond more
22 intelligently.

23 THE COURT: Okay. My last topic is to come back to
24 mediation. I was surprised that Judge Jones' or Judge Isgur's
25 staff expressed that they had availability. They are the

1 busiest judges in the country right now. I'm wondering when
2 were they contacted. Was it really recently, or a week or two
3 ago? Because they've probably gotten ten new mega-cases in
4 the past two weeks.

5 MR. POMERANTZ: So, Your Honor, the last -- the last
6 two weeks, again, probably since June 15th, we had been
7 discussing the structure of a mediation. We, the Debtor,
8 proposed perhaps a combination of Judge Isgur and Jones. We
9 initially had that conversation with Mr. Clemente, and then we
10 socialized it with the rest of the Committee members. As of
11 last Thursday, I believe it was, we had consensus that Judge
12 Jones, and if available, also Judge Isgur, would make sense.

13 I sent an email to Judge Jones' clerk, indicating that we
14 had a hearing today, that it would be helpful if we got a
15 response, and this morning, two hours before the hearing,
16 Judge Jones' clerk responded and told Mr. Clemente and I that
17 he is available and ready and suggested that we have a
18 conference with -- again, I'm not sure if it'll be him or his
19 clerk, to talk about availability. Of course, we didn't want
20 to go ahead and have that discussion until, you know, we got
21 Your Honor's input on it.

22 THE COURT: Okay. I mean, a couple of things come to
23 mind. One is I am just flabbergasted that they would have any
24 availability. I know they're -- I'm aware of Judge Jones
25 doing hearings on weekends.

1 But second, I'm also concerned what is their idea of
2 availability. Because in order for a mediator to meaningfully
3 help you on this, I mean, it's going to take not just hours
4 but days of time, unless you want the mediator to just have a
5 30,000-foot view. And I mean, I just cannot imagine, --

6 MR. POMERANTZ: So, --

7 THE COURT: -- once again, that they would have days
8 and days to come up to speed with, you know, 11 years of
9 litigation or however long it was, not that long, with UBS,
10 you know the years with Acis, you know, the various alleged
11 claims and causes of action, and, you know, the Byzantine
12 structure here. I mean, you know, not that they have to be,
13 you know, as educated as a judge presiding over litigated
14 matters, but I just cannot imagine they could meaningfully
15 spend time on this.

16 So what are you all envisioning? Because I know what I'm
17 envisioning, and maybe we're not seeing it the same way. I
18 mean, what are you thinking? That you'll go in and spend a
19 day with, you know, maybe just each of you doing a 25-page
20 white paper, and you'll either settle it by the end of the day
21 or not, or what?

22 MR. POMERANTZ: So, let me start by saying that when
23 everyone raised the issue of Judge Jones and Isgur, everyone
24 had the same potential concern that Your Honor has mentioned.
25 You know, my firm and me personally, I'm involved in a couple

1 of cases before Judge Jones now, significant cases. So there
2 was a concern.

3 I think people also generally thought that if they
4 accepted and they knew what they were getting into, they would
5 want to do a good job and they'd have the time.

6 We have not had the ability to have an extensive
7 discussion. That discussion could either occur with Mr.
8 Clemente and myself speaking to the clerk or the judge, or if
9 Your Honor -- nothing stops Your Honor from picking up the
10 phone, speaking to Judge Jones and asking him as well.

11 But I expect it to be a very intensive mediation process.
12 I do understand that Judge Jones only does mediations in
13 person, so this would require people getting to Houston,
14 which, in my experience, while I have participated in
15 mediations virtually on the phone, it's a lot more effective
16 to be in person. We would anticipate detailed mediation
17 briefs. We would envision each of the parties speaking to
18 Judge Jones to give him their perspective. But it would be --
19 it would be a significant assignment.

20 Again, whether we would conclude at the end of August, I
21 don't know, but I would contemplate a good two, three days of
22 in-person mediation at the end of August, and then probably,
23 if necessary, to set up for something else, which, again,
24 there are several different things. And I mentioned in my
25 opening remarks why I think people like Judge Jones -- and

1 this is also why we thought about Judge Isgur as well -- it's
2 not often you have two mediators, but two mediators,
3 especially judges who work together and who are pretty adept
4 at mediation, I mean, you know, having a bankruptcy judge be a
5 mediator is fine, but Judge Jones and Isgur, they have done a
6 lot of that, and I understand have continued to do that,
7 notwithstanding themselves getting busy.

8 So I can't answer Your Honor's question of whether they
9 know what they are getting themselves into. I would hope that
10 by, again, a combination, or Mr. Clemente and I speaking to
11 them or Your Honor speaking to them, they would understand.
12 And if they are willing to do it -- obviously, Highland is a
13 high-profile case; I know judges, sitting judges, often like
14 to help out their brethren who are sitting on the bench. So
15 if they are ready and able to do it, we'd think we'll have
16 lucked out, and we think they would be great to aid the
17 process.

18 If for some reason they don't really appreciate or if
19 Judge Jones doesn't appreciate what it is, then we can go back
20 to square one, and, you know, I'm sure find other people as
21 well. But we'd like to sort of give it a shot.

22 THE COURT: Okay.

23 MR. BJORK: Your Honor?

24 THE COURT: Yes?

25 MR. BJORK: May I be heard? This is Jeff Bjork with

1 Latham, hi, on behalf of UBS. I apologize. I just wanted to
2 say that, from our perspective, we have concern, we raised
3 this concern about Judge Jones or Isgur having the time to
4 really evaluate the claims. I mean, as you noted, our claim
5 is complex, to say the least. So is Acis's. There's a lot of
6 history behind it.

7 And so while we appreciate the fact that there is a
8 mediation process that will be moving forward, we have raised
9 the prospect of having a separate mediator like Dan Weinstein
10 or someone of that ilk to serve as a mediator with respect to
11 our claim dispute, with the goal of trying to advance that in
12 advance of August.

13 So we have put that out to the Debtors. We raised that
14 today in advance of this hearing. We're happy to progress
15 that discussion. But I wanted you to understand, from our
16 perspective, we share your concern.

17 THE COURT: Okay. Anyone else?

18 MR. POMERANTZ: So, just on that, Your Honor, --

19 THE COURT: Uh-huh.

20 MR. POMERANTZ: -- you know, we understood UBS's
21 view. We believe each of the other Committee members and the
22 Committee believe Judge Jones would be the appropriate person.
23 And, again, I think we're all I think somewhat in the dark
24 here, and I think the next step is to really find out the time
25 that they have available to devote to it. And, again, if they

1 have the time to devote to it, I don't think Mr. Bjork could
2 challenge that Judge Jones would be an excellent mediator and
3 excellent to resolve a complicated issue like the UBS claim.

4 THE COURT: Uh-huh. But you all cannot go down to
5 Houston live anytime in the near future. I don't know if
6 you're reading. Houston is pretty much like New York was two
7 months ago. It's -- well, the death rate is not as terrible
8 because it's younger people getting it, but it's the hotspot
9 for coronavirus right now. And --

10 MR. POMERANTZ: And we understand that, Your Honor.

11 THE COURT: Uh-huh.

12 MR. POMERANTZ: And, again, you know, we're sitting
13 here on July 8th. A lot could change by August 25th. A lot
14 couldn't change. I'm not, you know, I'm not sure there are
15 other places in the country people like to travel to more. I
16 mean, you know, --

17 THE COURT: Uh-huh.

18 MR. POMERANTZ: -- there are several places that are
19 hotspots. It may be challenging to do an in-person mediation.
20 I know on the Debtor's side we are committed to make it
21 happen. I might just ask Ms. Patel if she has the number of
22 the RV company she was going to -- because maybe that's an
23 appropriate way to get there.

24 THE COURT: All right. So, well, let's see. I was
25 going to say you'd be quarantined 14 days after, but you're in

1 California, not New York. New York, you know, has quarantined
2 --

3 MR. POMERANTZ: Yes.

4 THE COURT: -- people traveling from Texas. Well,
5 and remind me: August 25th. That was just sort of an
6 internal target date you all had created?

7 MR. POMERANTZ: Yeah. It was around, you know,
8 again, the end of August, you know, that we'd, you know, do
9 around that time.

10 THE COURT: Uh-huh. All right. You know, I'm --
11 I've been talking to lawyers in different cases, where the
12 topic of mediation is being discussed, about more and more
13 mediators, and this is private mediators, are becoming very
14 adept with Zoom mediation. And what I thought was noteworthy
15 -- I hadn't thought through this, you know. I thought, well,
16 you can do mediation like this. You know, if you can do court
17 by video, why can't you do mediation by video, what's the big
18 deal? But there are private mediators who apparently have
19 become every adept very fast at having these separate caucus
20 rooms, okay? So when you have mediation involving, you know,
21 12 different constituencies, you know, the mediator will close
22 out all the other conference rooms and go to these three
23 people, and then close that out and go to these eight people
24 in this other room. And it just really hadn't occurred to me
25 that, oh, if you're not live and in person, how do you that,

1 you know, the going back and forth from room to room? And
2 they've got some tricks worked out where some of them are
3 doing that. And I just don't know that any sitting judges are
4 going to have that all worked out.

5 I have a couple of names in mind. And I have not talked
6 to either of these folks, but I had thought of these people.
7 You know, they're going to cost you money. They're not going
8 to be free mediators like Judge Jones and Judge Isgur. But
9 two people. One, I had thought of retired Judge Jim Peck. I
10 don't know if he has availability, or, you know, a conflict or
11 anything like that, but he's someone I happened to have gone
12 to baby judge school with back in 2006, and, you know, have
13 somewhat of a friendship with him. And I thought of him
14 because not only does he have a personality that I think might
15 fit this situation, but, as you know if you ever had a case
16 with him, I mean, he's just so very smart. You know, he dealt
17 -- handled the *Lehman* case. You know, he's not going to be --
18 he'll be a very quick study, is what I'm thinking, as far as
19 whatever factual background he would need to assemble to get
20 up to speed.

21 And, again, I just worry -- and I'm going to get on the
22 phone and talk to Judge Jones and Judge Isgur -- but I'm just
23 really worried if they will devote the amount of time for this
24 to have a meaningful shot at settling.

25 Another name I thought of is a lawyer in Houston who was

1 at Weil Gotshal many years, Sylvia Mayer. I don't know if any
2 of you know her, but she pretty much does mediation and
3 arbitration full-time now, and she is one of the people I am
4 aware has mastered this Zoom separate conference rooms. So,
5 once again, you know, a very quick study, I think, my
6 impression from past dealings with her.

7 There may be many other names we could add to that list,
8 but you might want to all kind of talk offline about those as
9 well.

10 But here's what I want to do.

11 (Audio interruption.)

12 THE COURT: Was someone wanting to speak up?

13 Okay. I am going to think on this more between now and
14 the 14th. And, again, I'm going to be reaching out to Isgur
15 and Jones, and might reach out to Jim Peck and Sylvia Mayer as
16 well, just to have a lot of options out there. And then we'll
17 talk on the 14th about what my research has revealed in
18 talking to these folks.

19 So, everyone, just let's continue to think on this
20 mediation thing. But, again, I want this to be meaningful.
21 I'm very worried that, you know, if all you get is one day,
22 even a long day, with these folks, that it's just not at all
23 realistic that there would be a chance at settling. So I've
24 really got to think on this.

25 As far as the motions before the Court, I'm going to grant

1 the motion to extend exclusivity for 30 days. Okay? So,
2 August 12th. And no potential add-ons for two 30-day
3 additional extensions, which, you know, the mechanism, I think
4 you were hoping not to have to come back to the Court, that if
5 the Committee agreed, you know, you could just automatically
6 get up to 90 days. I'm not quite clear. But the point is I'm
7 just extending to August 12th, and for now that's all I'm
8 going to do. Okay?

9 MR. POMERANTZ: Understood, Your Honor.

10 THE COURT: And we didn't talk about the other
11 motion. That was sort of a no-brainer, I think, as far as
12 everyone was probably concerned, the motion to extend the
13 period to remove actions. The current deadline is July 14th.
14 You're wanting to extend that out to January 14th, 2021,
15 correct?

16 MR. POMERANTZ: Correct, Your Honor.

17 THE COURT: All right. Is there anyone who wanted to
18 say anything about that one?

19 (No response.)

20 THE COURT: All right. So that -- I think there's
21 good cause to grant that motion as well.

22 The only other thing --

23 MR. POMERANTZ: Your Honor, one --

24 THE COURT: Okay.

25 MR. POMERANTZ: One comment on what Your Honor said

1 about mediation. Again, I had a dialog with Albert, Judge
2 Jones' clerk. We may want to get him on the phone, Mr.
3 Clemente and I. Of course, we won't do it if Your Honor
4 doesn't think it's helpful. But it might be helpful. And,
5 again, I didn't know if that was going to be with Judge Jones
6 or if it was going to be with just his clerk, to talk about
7 days or whatnot.

8 But we'd be happy to get on the phone in order to give him
9 the parties' perspective, which, look, we all agree this has
10 to be a meaningful mediation. And perhaps hearing it also
11 from us in terms of what we expect and what we contemplate and
12 what we think the issues might be and whatnot could be
13 helpful.

14 If Your Honor doesn't want us to do that, that's fine.
15 But since I suspect his clerk will get back to me and say "Are
16 you available?" to Mr. Clemente and I, I just didn't want to
17 step on any toes and I wanted to check with Your Honor whether
18 you want us to take that call or not.

19 THE COURT: Okay. I got a little confused. You're
20 asking for a blessing to kind of continue the dialogue you've
21 already started with their offices?

22 MR. POMERANTZ: Well, I'm just asking. Again, I
23 don't want to be presumptuous.

24 THE COURT: Uh-huh.

25 MR. POMERANTZ: The fact that Your Honor is calling

1 Judge Jones is important. But I expect Judge Jones' clerk to
2 get back to us and say, "Are you available to have a
3 conversation?" And I just want to know what Your Honor's
4 pleasure is in terms of whether we should have it or not. I
5 think it might be helpful, but if Your Honor says, okay,
6 you've brought it here, you want to take it over from here, I
7 would obviously respect that. But just, just wanted to come
8 out of this hearing clear on what your expectations are in
9 terms of that communication.

10 THE COURT: Okay. I'll take it from here. And if
11 they call back, just say, you know, I understand Judge
12 Jernigan is going to be calling Judge Jones directly. And so
13 -- but I'll get on the phone this afternoon, so hopefully
14 there won't be any awkwardness on that.

15 MR. POMERANTZ: Thank you, Your Honor.

16 THE COURT: All right. Anything else?

17 The only other thing I was going to tie back to is I fully
18 expect that there would be across-the-board agreement to abate
19 the Acis newly-filed adversary, so I hope I would -- I don't
20 even remember who all the defendants are, but please make that
21 a priority, talking about that in the next few days, and
22 report to me on that on the 14th. Okay? Ms. Patel?

23 MS. PATEL: From Acis's perspective, yes, Your Honor,
24 will do. I'm on -- I'm all over it.

25 THE COURT: Okay. All right. Well, if there's

1 nothing else, we'll go ahead and adjourn for today. And I'll
2 keep -- if there's anything worthwhile to report on the
3 mediation front before we have our hearing on the 14th, I'll
4 have my courtroom deputy reach out to all counsel by email and
5 let you know. Okay? All right.

6 MR. POMERANTZ: Thank you very much, Your Honor.

7 MS. PATEL: Thank you, Your Honor.

8 THE COURT: Thank you. We stand adjourned.

9 THE CLERK: All rise.

10 (Proceedings concluded at 3:00 p.m.)

11 --oOo--

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CERTIFICATE

20

21 I certify that the foregoing is a correct transcript to
the best of my ability from the electronic sound recording of
the proceedings in the above-entitled matter.

22

/s/ Kathy Rehling

07/09/2020

23

24

Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

Date

25

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

3 In Re:) **Case No. 19-34054-sgj-11**
4)
4 HIGHLAND CAPITAL) Dallas, Texas
MANAGEMENT, L.P.,) August 19, 2020
5) 9:30 a.m. Docket
Debtor.)
6) STATUS CONFERENCE RE: DEBTOR'S
7) OBJECTION TO CLAIM 3 OF ACIS
8) CAPITAL MANAGEMENT, LP AND
9) ACIS CAPITAL MANAGEMENT GP,
LLC (771)
)

10 TRANSCRIPT OF PROCEEDINGS
11 BEFORE THE HONORABLE STACEY G.C. JERNIGAN,
12 UNITED STATES BANKRUPTCY JUDGE.

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40 transcript produced by transcription service.

1 DALLAS, TEXAS - AUGUST 19, 2020 - 9:36 A.M.

2 THE COURT: Status conference in the Highland case
3 regarding the Acis proof of claim objection. I know we have
4 lots of folks on the video or phone this morning. I'm sure
5 not all of them are planning to participate. So I'm going to
6 do a roll call of those I think will definitely participate,
7 and then we'll open it up for anyone else who might wish to
8 make an appearance.

9 Mr. Pomerantz, I see you back. You're appearing for
10 Highland this morning?

11 MR. POMERANTZ: Yes, I am back, Your Honor, along
12 with Ira Kharasch from Pachulski Stang on behalf of the
13 Debtors.

14 THE COURT: All right.

15 MR. KHARASCH: Good morning, Your Honor.

16 THE COURT: Good morning. We're glad to see you. We
17 heard you were under the weather with something last time, so
18 we're glad that you look perfectly fine today.

19 MR. POMERANTZ: Thank you very much, Your Honor.
20 Glad to be back.

21 THE COURT: All right. Now, I think I see Brian Shaw
22 there for Acis, correct? Mr. Shaw?

23 MR. SHAW: Yes. Yes, Your Honor. Brian Shaw on
24 behalf of Acis.

25 THE COURT: All right. I see Ms. Montgomery's name

1 up there for the Committee, correct?

2 MS. MONTGOMERY: (no audible response)

3 THE COURT: All right. I'm not hearing her. Let me
4 explain a couple things. I may have explained this in a
5 Highland matter before, or maybe not. With these video/audio
6 hearings, what we often do when we have dozens of people
7 participating is we here at the Court will mute everyone's
8 line when we're starting to hear distortion here or there.
9 And so you may not think you have muted yourself, and you'll
10 be correct; we have muted you. So if we can't hear you, we'll
11 need you to make sure you take yourself off mute.

12 And let me explain one more thing that I think people
13 might not be aware of. If you merely call in, okay, you don't
14 do WebEx where you can do video or audio, if you phone-call
15 in, to unmute yourself you need to press *6. Okay? So, we
16 have finally learned that people perhaps don't see that part
17 of the instructions or are not aware of that. So, to unmute
18 yourself if you are merely calling in, that's how you do it.

19 Okay. So, with that, I'll tell -- I'll say, Ms.
20 Montgomery, if you appeared, we did not hear you, so do you
21 want to try again?

22 MS. MONTGOMERY: I'm here, Your Honor, but I don't
23 intend to be participating actively. I think I'm mostly
24 listening today.

25 THE COURT: Okay. Very good. Thank you.

1 All right. I think I see Mr. Bonds there for Mr. Dondero.

2 Is that correct?

3 MR. BONDS: Yes, Your Honor.

4 THE COURT: All right. Mr. Clubok, are you appearing
5 today for UBS?

6 MR. CLUBOK: Yes, Your Honor. Andrew Clubok.

7 THE COURT: Okay. Good morning. All right. Anyone

8 --

9 MR. ANNABLE: Good morning.

10 THE COURT: Anyone else who wishes to appear

11 regarding this matter today?

12 MS. PATEL: Good morning, Your Honor. Rakhee Patel
13 on behalf of Acis.

14 THE COURT: All right. Thank you. Anyone else?

15 MR. ANNABLE: Good morning, Your Honor. Zachery
16 Annable of Melissa Hayward as local counsel to the Debtor.

17 THE COURT: All right. Thank you. Anyone else?

18 MS. MASCHERIN: Good morning, Your Honor. Terri
19 Mascherin; Jenner & Block; on behalf of the Redeemer Committee
20 of the Highland Crusader Fund.

21 THE COURT: All right. Good morning, Ms. Mascherin.
22 Anyone else?

23 All right. Well, Mr. Pomerantz or Mr. Kharasch, do you
24 want to start us out this morning? We continued this hearing
25 once already. And I think we talked about getting some sort

1 of written stipulation hopefully on file prior to this status
2 conference. I haven't seen it. So tell me where things
3 stand.

4 MR. POMERANTZ: Sure, Your Honor. This is Jeff
5 Pomerantz.

6 Over the last couple of weeks, Mr. Kharasch and I have had
7 multiple calls with counsel for Acis, Mr. Shaw and Ms. Patel,
8 to try to arrive at what we thought was an appropriate way to
9 proceed with the claim objection.

10 If Your Honor has looked at our claim objection even
11 briefly, you know it's in excess of 60 pages, and the response
12 is 70 pages, and that follows on a complaint that Acis had
13 filed. So there are a lot of issues that are dealt with in
14 the objection and are dealt with in the reply, and the hope
15 was that we would come to an agreement, which I think we have,
16 on how we should proceed, subject to, obviously, Your Honor's
17 acceptance.

18 The next hearing on the Acis objection, the objection to
19 Acis' claim, is currently scheduled for September 17th. And
20 as Your Honor is aware, we have mediation dates set with Judge
21 Gropper and Ms. Mayer for August 27th to September 4th, in the
22 hope of resolving not only the Acis claim, the UBS claim, as
23 well as other matters in the case.

24 Given the mediation and given that the parties -- at least
25 Acis and the Debtor -- believe that the best way to proceed

1 and narrow the issues is by cross-motions for summary
2 judgment, we would propose the following: We propose that we
3 would have the September 7th -- 17th date merely as a status
4 conference. That by September 16th, both Acis and the Debtor
5 would file cross-motions for summary judgment on the issues
6 that each of them believe are ripe for adjudication as a
7 matter of law by Your Honor and are not subject to disputed
8 facts.

9 Those motions would be filed according to the Local Rules
10 and the Bankruptcy Rules, and we would seek a hearing before
11 Your Honor on the summary judgment motions during the week of
12 October 19th.

13 During the interim, after the motions are filed, and even
14 before, we are going to work with Acis' counsel to see if we
15 can agree on a set of stipulated facts that would be used for
16 both the Debtor's summary judgment motion and Acis' summary
17 judgment motion.

18 And then, after the Court rules on the summary judgment
19 motions, whether that's at the hearing during the week of the
20 19th or thereafter, I think it's the Debtor and Acis' desire
21 to move expeditiously to a trial on the remaining issues. And
22 at least from the Debtor's perspective at that point, based
23 upon whatever Your Honor's rulings are or whatever is
24 remaining, we would be in a better position to assess what
25 type of discovery or what type of timing.

1 But rest assured, I think one thing that Acis and the
2 company and the Debtor agree on is we would like to, if we
3 can't resolve the matter by mediation, if Your Honor's rulings
4 on summary judgment don't facilitate resolution of the matter,
5 I think both sides would want to move expeditiously towards a
6 resolution through trial of any remaining factual issues.

7 So, essentially, we're asking for the 17th to be a status
8 conference and letting Your Honor know that we would both
9 intend to file cross-summary judgment motions by the 16th and
10 seek a hearing before Your Honor the week of the 19th of
11 October.

12 THE COURT: All right. Well, that sounds like a good
13 game plan to me, assuming this does not get worked out in
14 mediation.

15 I'll start by asking Ms. Patel or Mr. Shaw, will you weigh
16 in and confirm that that is how you all would like to proceed
17 as well?

18 MS. PATEL: Yes. Rakhee Patel for the record, Your
19 Honor, on behalf of Acis.

20 Yes, that's -- we are generally amenable to that -- to the
21 proposal as Mr. Pomerantz set forth. Obviously, any summary
22 judgment motion would need to be in compliance and the process
23 needs to be in compliance with 9014 and Rule 7056, and I think
24 that's the general basis of the agreement.

25 One thing that I would highlight, Your Honor, and I think

1 the parties have been consistent about this since the July
2 21st hearing, is that -- is, as Mr. Pomerantz identified, that
3 we would like to move this expeditiously to trial.

4 It is Acis' desire and our -- it was our expectation,
5 certainly, going into discussions on the process with Highland
6 and its counsel that hopefully the claim would be heard either
7 prior to or simultaneous with confirmation. So, and I know
8 that that brings in sort of a different issue, given the
9 posture of where we are right now with it being a claim
10 objection rather than an adversary proceeding. That is -- I
11 would like to reiterate sort of Acis' hope that this can all
12 be -- if it can't be resolved by agreement, that it would be
13 resolved before or simultaneous with confirmation of the plan,
14 any plan, in Highland's bankruptcy case.

15 One additional note just with respect to the discovery
16 point. Again, Acis is amenable to the summary judgment
17 process, but I think once mediation concludes -- and, again,
18 assuming mediation is not successful and that we are going to
19 nevertheless need to move forward with either a summary
20 judgment process or, frankly, preparations for trial -- in
21 order to keep with that timeline, I do think discovery is
22 going to need to commence shortly after mediation. And we can
23 talk and I'm always amenable and happy to talk with counsel
24 for Highland with respect to some reasonable discovery
25 limitations.

1 You know, we're not looking to -- we're not looking to
2 pile on with respect to discovery, Your Honor, but we are in a
3 situation where, at least vis-à-vis the claims as set forth in
4 the complaint, there has -- there was potential discovery that
5 was conducted during the course of Acis' bankruptcy case, but
6 there is still a significant amount of discovery that needs to
7 be done. It is not -- it is not a mountain of discovery, but
8 there is enough discovery I think that needs to be done that
9 it should commence in September, again, assuming that
10 mediation is unsuccessful.

11 THE COURT: All right.

12 MR. POMERANTZ: Your Honor, this is Jeff Pomerantz.
13 Just a couple of points in response to Ms. Patel.

14 As I indicated, the Debtor desires to move this forward as
15 quickly as possible. We do have a hearing on the Debtor's
16 disclosure statement scheduled for September 29th. This
17 summary judgment motion would be set, if it's consistent with
18 your Court's calendar, the week of October 19th.

19 I'm not sure whether it's going to be feasibly possible,
20 if we stay on our current timeline for plan confirmation, to
21 have a trial in advance. But, again, as I've indicated
22 before, after Your Honor rules on the summary judgment motions
23 we will get together, figure out what remains to be litigated,
24 and we will try to litigate it as expeditiously as possible.
25 We just can't commit that, given the uncertainty on how the

1 summary judgment motion is going to go and given the current
2 plan timeline, to say that it'll be -- that we'll be in a
3 position to actually have a trial before confirmation.

4 With respect to discovery, there's nothing, obviously,
5 before Your Honor, but I would submit, Your Honor, that, given
6 that there's going to be pending cross-motions for summary
7 judgment that may or may not be opposed on the basis of the
8 existence of material issues of fact, that it would seem to us
9 to be a little premature to start discovery because I don't
10 think the parties will really know the extent to which
11 discovery will be necessary until after Your Honor rules on
12 the summary judgment motions.

13 So, obviously, there's nothing before Your Honor now. To
14 the extent there is discovery served and to the extent we
15 believe it's appropriate, that that be deferred until after
16 the hearings on summary judgment. We could come back to Your
17 Honor. To the extent it's something that we could work with
18 counsel and provide some discovery and not have it be
19 burdensome and be the cart before the horse, in our view, we
20 will do so. But just wanted to let Your Honor know we are not
21 necessarily agreeable that we should start discovery back and
22 forth, assuming mediation is not successful. But, again, we
23 can cross that bridge when we come to it.

24 THE COURT: All right.

25 MS. PATEL: Your Honor, if I may, briefly.

1 I hear Mr. Pomerantz on his point with respect to the
2 disclosure statement. I would note, however, that, as it
3 stands right now, Acis has an objected-to claim, so for
4 purposes of plan voting, we're, at a minimum, if we can't have
5 the claim objection heard prior to confirmation, we're at
6 least going to have a claim estimation hearing. So, and which
7 I would anticipate that, again, we would still need some
8 amount of discovery.

9 I think -- I always want to make sure that I'm
10 foreshadowing at least issues with respect to my presentation
11 to the Court, so I do just want to put this on the Court's
12 radar. I'm not sure that it's necessarily an issue that needs
13 to be decided necessarily today, but these are the issues that
14 we certainly have coming down the pike.

15 THE COURT: All right. Before I comment on these
16 issues, is there anyone else who wishes to be heard? For
17 example, Mr. Bonds, I cannot remember now off the top of my
18 head, was it a joinder in the Debtor's objection or did you
19 have separate arguments with regard to objecting to Acis'
20 proof of claim?

21 MR. BONDS: We had an objection as well, Your Honor.
22 And we perceive that we will be trying to mediate with the
23 Debtor and with Ms. Patel. And if we're unsuccessful, we'll
24 have to approach the Court for guidance.

25 THE COURT: All right. So, for now, you're content

1 to be sort of left out of this mini-scheduling order and you
2 don't anticipate the summary judgment process applying to you?

3 MR. BONDS: No, Your Honor, we do not.

4 THE COURT: Okay. All right. Have I covered
5 everyone who has an interest in this? Ms. Mascherin, Mr.
6 Clubok, you know, you're just observing? You care very much
7 how this issue turns out as far as the size of Acis' proof of
8 claim, but you all have not filed an objection on behalf of
9 your clients, correct?

10 MS. MASCHERIN: That's correct, Your Honor.

11 MR. CLUBOK: Your Honor, Andrew Clubok. We -- UBS
12 has filed an objection. And we -- we've preserved that. We
13 have no problem with the schedule that was outlined in terms
14 of their cross-motions for summary judgment. But we,
15 depending on, I suppose, whether our points are covered in
16 those motions, we would, you know, reserve the right to be
17 heard. I do expect -- I would assume those points will be
18 covered in the cross-motions for summary judgment.

19 THE COURT: All right. So, do you want to be
20 included in this sort of mini-scheduling order at this
21 juncture? Do you anticipate filing your own motion for
22 summary judgment?

23 MR. CLUBOK: We don't anticipate filing a motion for
24 summary judgment.

25 THE COURT: Okay.

1 MR. CLUBOK: I suppose, if there's -- it sounds like
2 the parties -- we had not heard about this proposal until just
3 now, so it sounds like the parties are going to bring cross-
4 motions for summary judgment and no responses. I suppose, if
5 that's the process, we're fine not adding additional paper.
6 We would reserve the right, if possible, to be heard at a
7 hearing if our objections are not dealt with in those cross-
8 motions. I suppose that's a way to deal with it.

9 Also, in the course of the mediation, I assume we'll find
10 out more, and possibly, if it becomes clearer that there is a
11 clean issue that's not being addressed for some reason by the
12 parties that we feel a need to address, we could file our own
13 cross-brief.

14 I'm trying to think through, you know, on the fly here
15 about how to just preserve the right to say something,
16 although I think it's unlikely we will need to in that
17 process.

18 THE COURT: All right. Well, let me back up and
19 clarify my understanding. I thought that I heard one of you
20 say -- Mr. Pomerantz, I think -- that the Local Rules would
21 apply to the motions for summary judgment. And what I was
22 interpreting that to mean is responses could be filed to
23 motions for summary judgment in, you know, in a 21-day time
24 frame, and then maybe replies thereafter on a 10-day time
25 frame.

1 But am I creating more work here than you anticipated on
2 that?

3 MR. POMERANTZ: No, you are correct, Your Honor. We
4 would follow the Local Rules and be able to respond as
5 provided in the Local Rules.

6 THE COURT: All right. So, --

7 MS. PATEL: And that's Acis' understanding as well,
8 Your Honor.

9 THE COURT: Okay. So, --

10 MR. CLUBOK: Okay. Well, then, if --

11 THE COURT: Go ahead. Mr. Clubok?

12 MR. CLUBOK: Well, I was going to say, if that's the
13 case, perhaps the parties would just agree that we will not
14 file anything. If we feel like there's a need to address our
15 objection after seeing the two cross-motions, we'll file it on
16 the deadline for the response, and that way either side could
17 reply. I doubt that will happen, but in case we have a need
18 for it, we'll preserve that opportunity, if that's acceptable
19 to everybody.

20 THE COURT: All right. That --

21 MR. BONDS: Your Honor, we would --

22 THE COURT: That sounds fair to me. Anyone want to
23 argue differently?

24 MR. BONDS: Your Honor, I'm not arguing differently,
25 but I would like the same opportunity for Mr. Dondero.

1 THE COURT: All right. Well, you know. Pomerantz,
2 Patel, either of you have any opposition to that? It sounds
3 fair to me, since they have filed their own objections.

4 MR. POMERANTZ: No opposition from the Debtor, Your
5 Honor.

6 MS. PATEL: No opposition from Acis, Your Honor.

7 THE COURT: All right. Well, let me first see what
8 we can give you the 19th. I think you've picked a good week,
9 because that's normally our trial week, and we would not have
10 set a trial yet since we haven't had the trial docket call for
11 that week.

12 (Pause.)

13 THE COURT: All right. We can give you October 20th,
14 9:30.

15 MR. POMERANTZ: Did you say 9:30, Your Honor?

16 MS. PATEL: Thank you, Your Honor.

17 THE COURT: October 20th at 9:30.

18 MR. POMERANTZ: Yes. That would be fine, Your Honor.

19 THE COURT: Ms. Patel?

20 MS. PATEL: Yes. Thank you, Your Honor.

21 THE COURT: Okay. So that's a Tuesday. Tuesday,
22 October 20th, at 9:30.

23 All right. Well, I don't want to address discovery at
24 this juncture, and I don't want to address the ultimate trial
25 setting.

1 I think, you know, Ms. Patel, you've already announced
2 that there has been a lot of discovery and you don't think you
3 would need a "mountain of discovery." So I think what we'll
4 do, if you tell me on October 20th -- which, fingers crossed,
5 I hope I can rule promptly. As you know, I have a lot of
6 familiarity with the original complaint, the adversary filed
7 by Acis. I'm not, you know, well-schooled yet in all of the
8 objections that have been filed yet. But if I can -- what we
9 will do, I will either rule on the 20th orally from the bench,
10 with a written ruling to come, or I'll tell you I need, you
11 know, some time. But we will address on the 20th discovery
12 needs, and I will anticipate allowing expedited discovery at
13 that point, if we have discovery needs, okay, so that we could
14 have a trial setting as soon as possible.

15 I don't know yet how that would coincide with
16 confirmation.

17 Ms. Patel, you're absolutely right that, at a minimum,
18 we'd need an estimation hearing before ballots and whatnot
19 could be counted. And so at this juncture I'd be highly
20 inclined to just want to do an actual claim allowance hearing,
21 if you're going to go through all that trouble of an
22 estimation hearing.

23 So, we're just going to have to figure out the timing of
24 all of this on October 20th. Whether I rule that day or not,
25 we'll leave that setting with a game plan on expedited

1 discovery and a hearing on -- you know, the trial, I should
2 say -- on the claim objection.

3 So, part of my reason for wanting this to remain silent
4 for now is, as you can imagine, I want everyone to be fully
5 focused on the mediation right now. I want everyone to give
6 it one hundred percent of their effort, without having
7 distractions of discovery and gearing up for whatever type of
8 trial we have.

9 So, I'm going to ask -- well, I'll ask, Mr. Pomerantz,
10 your team to be the scrivener on this very short partial
11 scheduling order, if it could just be consistent with
12 everything that's been announced here today.

13 Any last-minute housekeeping issues on this?

14 MR. POMERANTZ: None from the Debtor, Your Honor. We
15 will prepare the order.

16 THE COURT: All right. And, obviously, give Ms.
17 Patel, Mr. Bonds, and Mr. Clubok an opportunity to review it
18 and comment. But it should be short and sweet, and I would
19 think there wouldn't be any room for much controversy on it.
20 Okay?

21 MR. POMERANTZ: Absolutely.

22 THE COURT: All right.

23 MS. PATEL: Thank you, Your Honor.

24 THE COURT: Well, you know, I don't know if good luck
25 is the right expression for the upcoming mediation, but I

1 trust you're all going to give it your strongest effort. It
2 would obviously be a wonderful outcome here if it's fruitful
3 mediation. All right? So, thank you. We're adjourned.

4 (Proceedings concluded at 10:01 a.m.)

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CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Kathy Rehling

08/26/2020

Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

Date

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

In Re: HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-sgj11
UBS Securities LLC, et al	§	
Appellant	§	
vs.	§	
Highland Capital Management, L.P.	§	3:20-CV-03408-G
Appellee	§	

[1273] Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # [1089](#)) Entered on 10/23/2020.

**APPELLANT RECORD
VOLUME 7**

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*Counsel for UBS Securities LLC and UBS
AG, London Branch*

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

-----X
In re: : Chapter 11
: :
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ : Case No. 19-34054-sgj11
: :
Debtor. :
-----X

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**APPELLANTS' AMENDED STATEMENT OF ISSUE AND
DESIGNATION OF RECORD ON APPEAL**

¹ The last four digits of the Debtor's taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Bankruptcy Court, Suite 700, Dallas, TX 75201.

Pursuant to instructions by the Clerk of Court (*see* Docket No. 1458), Appellants UBS Securities LLC and UBS AG, London Branch (together “UBS” or “Appellants”) submit this amended statement of issue and designation of record on appeal in connection with their appeal of the *Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* (Bankruptcy Case No. 19-34054-sgj11) [Docket No. 1273], dated October 22, 2020 and entered by the United States Bankruptcy Court for the Northern District of Texas on October 23, 2020.

I. STATEMENT OF ISSUE TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court err as a matter of law by approving the Debtor’s claim compromise as fair, equitable, and in the best interest of the estate under Federal Rule of Bankruptcy Procedure 9019?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

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1. The Notice of Appeal:
a. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1339);
b. Amended Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 (Dkt. 1369).

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2. The Judgment, Order, or Decree Appealed from:
a. Order Approving Debtor’s Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith (Dkt. 1273).

3. Any Opinion, Findings of Fact, and Conclusions of Law of the Bankruptcy Court:

To the extent included in or underlying the documents identified in part II.5 herein.

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4. The Docket Sheet for Bankruptcy Case No. 19-34054-sgj11.

5. Documents listed below (as described in the Docket Sheet for Bankruptcy Case No.

19-34054-sgj11):

<i>Vol. 2</i>	Date Filed	Docket No.	Description/Docket Text
<i>000301</i>	12/4/2019	1	(2 pgs) Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
<i>000303</i>	12/27/2019	281	(100 pgs; 4 docs) Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) (Hayward, Melissa)
<i>000403</i>	1/9/2020	339	(5 pgs) Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course (related document # 281) Entered on 1/9/2020. (Okafor, M.)
<i>000408</i>	3/2/2020	488	(18 pgs) Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # 421) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
<i>000426</i>	9/21/2020	1079	(61 pgs) Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)944 Chapter 11 plan). (Annable, Zachery)
<i>Vol. 3</i>	9/21/2020	1080	(155 pgs; 3 docs) Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)(Annable, Zachery)
<i>000487</i>	9/23/2020	1089	(26 pgs; 2 docs) Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A--Proposed Order) (Annable, Zachery)
<i>000642</i>	10/15/2020	1173	(11 pgs; 2 docs) Notice (Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1080 Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)945 Disclosure statement). (Attachments: # 1 Exhibit A--First Amended Plan of Reorganization # 2 Exhibit B--Organizational Chart)). (Attachments: # 1 Exhibit C/D to
<i>000668</i>			

Date Filed	Docket No.	Description/Docket Text
		Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/16/2020	1191	(8 pgs) Response opposed to (related document(s): 1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/19/2020	1220	(11 pgs) Reply to (related document(s): 1190 Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/28/2020	1303	(2 pgs) Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 & #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)
10/30/2020	1315	(3 pgs) Order directing UBS' Offer of Proof (RE: related document(s)1089 Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.) ²
6/8/2020	719	SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
6/8/2020	720	SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)

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² This designation includes the underlying documents that UBS submitted to the Bankruptcy Court in hard copy pursuant to this ruling.

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Date Filed	Docket No.	Description/Docket Text
6/8/2020	721	SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s)711 Order on motion to seal). (Platt, Mark)
8/7/2020	933	(431 pgs; 23 docs) Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page - to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page - to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page - to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page - to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page - to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page - to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page - to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page - to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page - to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page - to be filed under seal upon order from Court)) (Platt, Mark)
8/26/2020	996	(34 pgs) Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund - Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) (sealed exhibits)
9/23/2020	1090	(94 pgs; 7 docs) Declaration re: (Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81).). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) (Annable, Zachery)
10/5/2020	1127	SEALED document regarding: Exhibit B--Cornerstone Monetization Schedule per court order filed by Debtor

Date Filed	Docket No.	Description/Docket Text
		Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1128	SEALED document regarding: Exhibit 2 - Partial Final Award dated March 6, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.).
10/5/2020	1129	SEALED document regarding: Exhibit 3--Disposition of Application of Modification of Award dated March 14, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/5/2020	1130	SEALED document regarding: Exhibit 4--Final Award dated April 29, 2019 per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1125 Order on motion to seal). (Annable, Zachery)
10/16/2020	1190	(42 pgs; 2 docs) Objection to (related document(s): 1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # 1 A-C) (Sosland, Martin)
10/16/2020	1192	(36 pgs; 3 docs) Declaration re: W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)1190 Objection). (Attachments: # 1 Exhibit 1-6 # 2 Attachments A-C) (Sosland, Martin)
7/10/2020	817	Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 812 Hearing held on 7/8/2020. (RE: related document(s)737 Motion to extend or limit the exclusivity period (RE: related document(s)668 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M.

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Date Filed	Docket No.	Description/Docket Text
		Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.), 813 Hearing held on 7/8/2020. (RE: related document(s)747 Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)459 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
8/26/2020	998	Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s)771 Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)

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<u>Date Filed</u>	<u>Docket No.</u>	<u>Description/Docket Text</u>
10/23/2020	1271	Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1256 Hearing held on 10/20/2020. (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), 1257 Hearing held on 10/20/2020. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)

Respectfully submitted,

DATED this 25th day of November 2020.

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CERTIFICATE OF SERVICE

I, Martin Sosland, certify that the *Appellants' Amended Statement of Issue and Designation of Record on Appeal* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: November 25, 2020.

/s/ Martin Sosland

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

4 In Re:) **Case No. 19-34054-sgj-11**
5) Chapter 11
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HIGHLAND CAPITAL
MANAGEMENT, L.P.,

Debtor.

Dallas, Texas
Tuesday, October 20, 2020
9:30 a.m. Docket

MOTIONS TO COMPROMISE
CONTROVERSY WITH ACIS CAPITAL
MANAGEMENT [1087] AND THE
REDEEMER COMMITTEE OF THE
HIGHLAND CRUSADER FUND [1089]

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE STACEY G.C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE.

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2 THE COURT: A little bit of a wait. I was trying to
3 make sure I was caught up on all of the late-day filings
4 yesterday. There were a few of them.

5 All right. This is Judge Jernigan, and we're ready to
6 start our setting in Highland Capital Management, Case No. 19-
7 34054. We have two motions set today where the Debtor is
8 seeking approval for compromise and settlement agreements, one
9 with Acis and related parties and one with Redeemer Committee
10 and the Crusader Fund.

11 All right. We have 70 or so people on the line, so we
12 have put you all on mute. But I am going to now take a roll
13 call, so you'll have to take yourself off mute when I call
14 your name for an appearance.

15 All right. First, for the Debtor team, do we have Mr.
16 Pomerantz and a team of others? Would you appear at this
17 time?

18 MR. KHARASCH: Good morning, Your Honor. Ira
19 Kharasch of Pachulski Stang Ziehl & Jones on behalf of the
20 Debtor and Debtor-in-Possession.

21 I'd first like to let the Court know that Mr. Pomerantz is
22 on the phone in a listening mode. He will not be appearing
23 today as he's still recuperating from successful surgery last
24 week, but glad to say that he's improving daily and looking
25 forward to appearing in front of Your Honor again in the very

1 near future.

2 THE COURT: All right.

3 MR. KHARASCH: I have with me today John Morris as
4 well as Greg Demo.

5 THE COURT: All right. Good morning to all of you.
6 And we wish Mr. Pomerantz well.

7 All right. For the Redeemer Committee, Crusader Funds, do
8 we have a team appearing for them this morning? Go ahead.

9 MS. MASCHERIN: Yes, Your Honor. Terri Mascherin of
10 Jenner & Block. I'm appearing today on behalf of both The
11 Redeemer Committee of the Crusader Funds and also the Crusader
12 Funds, --

13 THE COURT: Okay.

14 MS. MASCHERIN: -- whose claim is likewise resolved
15 in the settlement.

16 With me today on the line are my partner Mark Hankin, and
17 Mark Platt of Frost Brown Todd.

18 THE COURT: All right. Good morning to all of you.

19 All right. For Acis, do we have Ms. Patel and others
20 appearing this morning?

21 MS. PATEL: Yes. Good morning, Your Honor. Rakhee
22 Patel on behalf of Acis Capital Management, LP, with the
23 Winstead firm. Also on the line is Brian Shaw of the Rogge
24 Dunn Group, also counsel for Acis and counsel for Mr. Terry.
25 I'll let him announce if he has additional parties.

1 THE COURT: All right. Mr. Shaw, are you there with
2 us?

3 MR. SHAW: (no response)

4 THE COURT: Okay. Maybe technical --

5 MS. PATEL: Brian, we can't hear you.

6 (No response.)

7 THE COURT: All right. Well, Mr. Shaw, --

8 MS. PATEL: Well, --

9 THE COURT: -- we put -- the Court put everyone on
10 mute, so if you could take yourself off mute if you are trying
11 to appear. (No response.) Well, maybe we'll get him at some
12 point when -- if he wants to speak up.

13 All right. We have several objecting parties this
14 morning. I'll start with Mr. Dondero's counsel. Do we have
15 Mr. Lynn or someone from his team on the phone or on the
16 video?

17 MR. WILSON: Yes, Your Honor. This is John Wilson
18 with Bonds Ellis Eppich Schafer Jones, LLP. I am joined today
19 by John Bonds, Michael Lynn, and Bryan Assink.

20 THE COURT: All right. Good morning to all of you.
21 All right.

22 MR. WILSON: Thank you.

23 THE COURT: We had Patrick Daugherty as an objecting
24 party to the Acis settlement. Do we have Mr. Kathman and his
25 team?

1 MR. KATHMAN: Good morning, Your Honor. Jason
2 Kathman on behalf of Mr. Daugherty.

3 THE COURT: Okay. Good morning.

4 All right. We had UBS objecting to the Redeemer
5 Committee/Crusader Fund settlement. Do we have Mr. Clubok or
6 others appearing for UBS?

7 MR. CLUBOK: Good morning, Your Honor. This is
8 Andrew Clubok from Latham & Watkins, LLP on behalf of UBS.
9 I'm here with Sarah Tomkowiak, who will actually be leading
10 the proceedings for us today, and also Kimberly Posin.

11 THE COURT: All right. Good morning to all of you.
12 We had a few reservation of rights type limited
13 objections, so I'll check now on these parties. CLO Holdco:
14 Do we have Mr. Kane or others appearing?

15 MR. KANE: Yes, Your Honor. John Kane on behalf of
16 CLO Holdco, specifically related to the Acis settlement.

17 THE COURT: Okay. Thank you, Mr. Kane.

18 All right. HCLO Funding: Do we have either Mr. Maloney
19 or Ms. Matsumora on the line?

20 MS. MATSUMORA: Yes, Your Honor. This is Rebecca
21 Matsumora from King & Spalding. And Mr. Maloney may be
22 joining us later, once we turn to the Acis settlement.

23 THE COURT: All right. Thank you.

24 HarbourVest filed a limited objection to the Acis
25 settlement. Do we have Ms. Driver or others appearing for

1 HarbourVest?

2 MS. WEISGERBER: Good morning, Your Honor. Erica
3 Weisgerber from Debevoise & Plimpton appearing for HarbourVest
4 this morning.

5 THE COURT: Okay. Good morning.

6 All right. Well, I think I've covered all of the parties
7 who filed a pleading today. I suspect the Unsecured
8 Creditors' Committee is out there. Do we have someone
9 appearing for them?

10 MR. CLEMENTE: Good morning, Your Honor. Matthew
11 Clemente from Sidley Austin on behalf of the Unsecured
12 Creditors' Committee.

13 THE COURT: All right. Good morning, Mr. Clemente.

14 All right. Is there anyone else who wishes to appear that
15 I did not hear from?

16 All right. Well, Mr. Kharasch, do you want to start us
17 off this morning?

18 MR. KHARASCH: I would like to, Your Honor, just very
19 briefly, before I turn it over to my partner, John Morris.

20 As you know, Your Honor, we're down to two motions to
21 approve the separate settlements, one with Acis and Josh and
22 Jennifer Terry on the one hand, as well as the Redeemer
23 Committee and the Highland Crusader Funds on the other.

24 There's one significant update in the case that may come
25 up during today's proceeding, it may not, but it's that Mr.

1 James Dondero has resigned from his position where he held the
2 title of Portfolio Manager where he managed certain assets
3 under the direction of the Independent Directors, and all
4 actions were subject to the protocols and director oversight.

5 Here's how we'd like to proceed, Your Honor, today. John
6 Morris of our firm, senior bankruptcy litigator, will be the
7 one to primarily handle most aspects of the 9019 settlement
8 motions, including putting on the testimony of our CEO, Mr.
9 James Seery, and responding to the objections. However, Greg
10 Demo will deal with the response to the technical arguments
11 raised by Mr. Daugherty.

12 If that works with the Court, I would now turn the floor
13 over to John Morris to present the motions.

14 THE COURT: All right. Let me just ask one
15 clarification on the Dondero announcement. Does that mean he
16 has no role at all with the Debtor only, or does it mean he
17 has no role with the various affiliates out there as well?

18 MR. KHARASCH: Your Honor, certainly, I mean, I would
19 defer to Mr. Seery when he gets on the stand, --

20 THE COURT: Okay.

21 MR. KHARASCH: -- but there's no role with the
22 Debtor. In terms of the word affiliates, Your Honor, that
23 gets a little tricky in the Highland case. Certainly, you
24 know, it's no -- no role with the controlled entities,
25 Highland's -- the Debtor's controlled entities. But,

1 obviously, the word affiliates could spill over to other
2 entities that are truly managed and owned by Mr. Dondero or
3 his various companies.

4 THE COURT: Okay. I know folks tend to bristle when
5 I use that word affiliate. I know there's nuance in some
6 situations. But all right.

7 Well, let's go ahead, then, and hear from Mr. Morris. And
8 I'll just say right now I don't think I need lengthy opening
9 statements. I don't know if that was your intention, to go
10 straight to the evidence. Certainly, if people feel like
11 they've got to say a word or two, I'll let that happen, but
12 we've done our best to read all the pleadings so I don't
13 really think I need much of an opening statement. I'd rather
14 go to evidence pretty quickly. Mr. Morris?

15 MR. MORRIS: Good morning, Your Honor. Can you hear
16 me?

17 THE COURT: I can. Uh-huh.

18 OPENING STATEMENT ON BEHALF OF THE DEBTORS

19 MR. MORRIS: Thank you. John Morris from Pachulski
20 Stang Ziehl & Jones for the Debtor. Thank you for the
21 guidance, Your Honor. I'll probably cut considerably on what
22 I had been prepared to say, but I appreciate the time that the
23 Court has taken to review our papers. I know that we didn't
24 get them in until last evening, although they weren't
25 particularly voluminous.

1 We're really pleased to be here today, Your Honor. This
2 case has just recently passed its one-year anniversary. We're
3 here today, really, quite excited to resolve two of the most
4 contentious, litigious cases that the Debtor has faced, both
5 on a pre-petition basis, and frankly, in certain respects, on
6 a post-petition basis. These cases with Acis -- and Acis, in
7 particular, Your Honor, you're very familiar with, and I just
8 wanted to let the Court know that our plan here is to proceed
9 first with the Redeemer settlement.

10 THE COURT: Okay.

11 MR. MORRIS: And so let me just say a few words about
12 that. (garbled) I've shared with all of the objecting
13 parties, so there's no surprise here. I think everybody is
14 prepared for the path that we're going to go down. I'd like
15 to do my short opening. Ms. Patel and Mr. Shaw may -- I
16 apologize, Ms. Mascherin may speak on behalf of the Redeemer
17 Committee. Somebody may speak on behalf of the Crusader
18 Funds. UBS, who is the only objecting party, may choose to
19 make an opening. And I'll call Mr. Seery. And I'll do my
20 direct of Mr. Seery. I've got just a few exhibits to put into
21 the record, and we expect to rest. And I'll leave it to Mr.
22 Clubok and the Latham firm to decide how they want to respond.

23 So, once that's completed, we will shift to the Acis
24 settlement. I would propose to proceed in the same manner,
25 with a very short opening, put Mr. Seery on the stand to

1 testify as to the issues and the facts relating to the Acis
2 settlement, and hopefully we'll be done.

3 THE COURT: All right. So, in both situations, Mr.
4 Seery would be the only witness for --

5 MR. KHARASCH: Yes.

6 THE COURT: -- the Debtor. And I guess with regard
7 to the UBS objection to the Redeemer Committee/Crusader Fund
8 settlement, there is a person that was identified for UBS:
9 Moentmann. I'm not sure if I'm saying that correctly. Are we
10 anticipating having him as a witness? I guess I need to hear
11 from Mr. Clubok, but --

12 MR. CLUBOK: Yeah. Yeah, I don't -- I don't --

13 MS. TOMKOWIAK: I think --

14 MR. CLUBOK: -- I'll speak.

15 MS. TOMKOWIAK: Good morning, Your Honor. This this
16 is Sarah Tomkowiak on behalf of UBS.

17 THE COURT: Okay. Good morning.

18 MS. TOMKOWIAK: Yes, we do intend to present Mr.
19 Moentmann as a witness today.

20 THE COURT: All right. Well, I'm getting ahead on
21 this because what I want to know is, do people -- can people
22 give me a time estimate at least of your direct? Okay? I'm
23 trying to figure out, are we going to need to put any time
24 limitations, reasonable time limitations on witnesses?

25 Mr. Morris, you acted like Mr. Seery would be fairly quick

1 in both situations.

2 MR. MORRIS: Yeah, I would appreciate 10 minutes for
3 an opening, and then certainly no more than 30 but hopefully
4 closer to 20 minutes for direct.

5 THE COURT: All right. Ms. Tomkowiak, what do you
6 think as far as time?

7 MS. TOMKOWIAK: Yeah. We would like about the same,
8 approximately 10 minutes for our opening and about 20 minutes
9 to cross-examine Mr. Seery. And then I expect that our direct
10 of Mr. Moentmann would take about the same amount of time.

11 THE COURT: All right . Well, I've got some loose
12 estimates. If you start going well beyond those estimates,
13 I'm going to kind of rein it in, but I think this all sounds
14 very reasonable.

15 All right. Mr. Morris, you may make your opening
16 statement.

17 MR. MORRIS: Thank you very much, Your Honor. What I
18 want to do with my opening is just describe at a very high
19 level what we expect the evidence to show today. The Court is
20 obviously familiar with the settlement terms, so I'm not going
21 to spend any time with that. They're set forth both in our
22 papers and in the agreement itself. The Court is familiar
23 with the legal standard. So I'd like to spend a few minutes
24 at the end talking about the UBS objection and why the Debtor
25 firmly believes that it ought to be overruled.

1 As Your Honor is aware, the Debtor had served as the
2 investment manager of the Crusader Funds. In 2008, following
3 the stock market and financial crisis, the Debtor put the
4 Crusader Funds into (garbled). Disputes arose among the
5 interest holders of the Crusader Funds, and they spent a few
6 years fighting among themselves. And a few years later, they
7 came up with a plan and scheme, pursuant to which the Redeemer
8 Committee was formed. The Redeemer Committee had the -- had
9 the right, the unfettered right to decide when, how, and
10 whether the Debtor would continue on as its financial manager.
11 And in the summer of 2016, it decided to terminate the
12 Debtor's position as investment manager.

13 An arbitration ensued. Litigation, frankly, throughout --
14 throughout numerous countries and numerous courts ensued.
15 There were two cases in Aruba, I believe. There was a case in
16 the Cayman Islands. There was a case filed in the Delaware
17 Chancery Court. You had the arbitration. So I think there
18 was litigation going on on five different fronts.

19 The parties spent two years in arbitration, engaged in
20 extensive discovery and motion practice. They had a nine-day
21 trial in September of 2018, and ultimately the panel issued an
22 award, and that award came in three parts. The first part was
23 called a partial final award, which was rendered in March of
24 2019. That was followed, I think, about eight days later with
25 a modification award. And finally, in May, they issued their

1 final award.

2 All three awards are attached to my declaration. They
3 have been offered into evidence under seal. The sealing order
4 has already been entered, and that sealing order, I think, is
5 also one of our exhibits. I'm not moving them into evidence
6 yet. We'll get to that point. But I just wanted Your Honor
7 to know that the arbitration awards are very much part of the
8 record.

9 That award, I don't think there's any dispute that,
10 pursuant to the award, the Debtor was obligated to pay
11 approximately \$190 million. Shortly after the award was
12 filed, the Redeemer Committee and the Crusader Funds moved to
13 have the arbitration award confirmed in the Delaware Chancery
14 Court, and Highland moved for partial -- for a partial
15 vacation of that award.

16 Notably, Highland did not challenge any of the Court --
17 any of the arbitration panel's factual findings. They didn't
18 challenge any substance of the award. But they raised a
19 number of procedural defects that primarily went to the
20 overarching argument that the partial final award should have
21 been treated as the final award, such that any relief granted
22 in the modification award and the actual final award was
23 impermissible.

24 I think UBS has calculated the value of the awards given
25 post those two documents as approximately \$36 million.

1 So, you've -- the Redeemer Committee has filed their claim
2 in this case of \$490 million. The Crusader Funds have filed a
3 separate proof of claim for approximately \$23 million, if I
4 remember correctly. And their basis for the Crusader's Fund
5 claim is that they sued to claw back certain fees that had
6 been paid to Highland in its role as investment manager.
7 Admittedly, I think -- I don't want to speak for the Crusader
8 Funds -- but I do think they acknowledge that there is some
9 overlap in those amounts.

10 You will hear from Mr. Seery today. Mr. Seery will
11 describe for you what he and an independent board of directors
12 did to educate themselves about the scope, nature, and value
13 of the Redeemer Committee's claim. They will -- Mr. Seery
14 will discuss the extensive advice that the board was given
15 with respect to these matters. Mr. Seery will also describe
16 for you the extensive negotiations that took place between the
17 Debtor and representatives of the Redeemer Committee and the
18 Crusader Funds. You will hear about communications between
19 and among lawyers, communications between and among
20 principals.

21 I recall, Your Honor, back in June, when we I think first
22 alerted to the Court that we were negotiating the settlement,
23 you expressed some mild surprise, because, after all, this is
24 an arbitration award, so what -- what, in fact, was there to
25 settle? And it was a very fair point, and we appreciated the

1 fact that you didn't have visibility into the specifics. But
2 lo and behold, there were really -- let's just call them very
3 two -- two very large issues.

4 And Mr. Seery will describe this in more detail for the
5 Court so it's part of the evidentiary record, but the first
6 issue related to something called deferred fees. Pursuant to
7 the plan and scheme that were agreed upon, Highland was
8 entitled to recover its fees as investment manager only upon
9 the completion of the Crusader Funds' liquidation. But in the
10 early part of 2016, as the panel found, Highland had helped
11 itself to approximately \$32 million in deferred fees, and that
12 was one of the claims that the Crusader Fund and the Redeemer
13 Committee brought in the arbitration, and the arbitration
14 required that Highland return that \$32 million plus interest.

15 So why is that an issue now in the settlement? It's an
16 issue because the Debtor chose a different path. Rather than
17 paying that money now and waiting for some time in the future
18 to seek to collect that money, it compromised. And it's a
19 very reasonable and fair and rational compromise, Your Honor.
20 They took two-thirds of the value of the deferred fee today
21 instead of having no settlement, continuing with the
22 litigation, having a fight on setoff issues, because
23 undoubtedly the Redeemer Committee would argue that they ought
24 to get paid a hundred-cent dollars. So we'd have another
25 litigation over setoff. We would have to wait until the

1 completion of the Crusader Funds' liquidation before we could
2 even make a demand for the deferred fee. And as Your Honor
3 knows, the Crusader Funds are going to have and the Redeemer
4 Committee will have an allowed claim in this case, and that
5 claim won't be satisfied until all distributions are made, and
6 those distributions won't be completed until all estate claims
7 are pursued.

8 It may be many years before this happens. And so the
9 Debtor, I think rationally, chose to take two-thirds now
10 rather than fight over setoff issues, rather than wait what
11 would likely be many years to even apply for it. And then
12 once they did that, we'd be litigating over the Redeemer
13 Committee's faithless servant defense, one that, if you read
14 the -- if you read the partial final award, I think it's fair
15 to say there would be risk here that the Debtor would get
16 nothing on the deferred fee. So that was one big issue that
17 we dealt with.

18 The other one related to Cornerstone. Under the terms of
19 the final order by the Court -- the panel, not the Court, but
20 the panel -- but the panel found that Highland acted
21 improperly and was required to buy -- basically buy out the
22 Redeemer Committee and the Crusader Funds' interest in
23 Cornerstone. They would have been required to pay \$48 million
24 to do that.

25 Again, issues of setoff would have abounded. And frankly,

1 the Debtor doesn't have the money to pay that, doesn't think
2 it's, frankly, worth that price.

3 So, instead, negotiations, very, very solid negotiations,
4 the Debtor chose to allow the Redeemer Committee and the
5 Crusader Funds to retain those Cornerstone shares and instead
6 give us a credit of \$30.5 million against the gross value of
7 the arbitration award.

8 So the \$190 million is reduced first by \$21 million for
9 the deferred fee; then, second, by \$30-1/2 million for the
10 Cornerstone issue.

11 How did they arrive at the \$30.5 million figure? We'll
12 hear Mr. Seery testify about the diligence that he did and
13 about how he relied in substantial part on certain valuation
14 reports that the Debtor receives in the ordinary course of
15 business from Houlihan Lokey.

16 He will tell you that these reports are provided by
17 Houlihan for a fee. They're provided not just with respect to
18 Cornerstone but with respect to lots of other assets that the
19 Debtor either owns or manages.

20 He will tell you that the Debtor relies on the Houlihan
21 reports for setting the marks on their books and for all kinds
22 of other reasons.

23 We believe that that, again, is a perfectly rational
24 statement, and we want to emphasize to the Court that we're
25 not here today to tell you that this is the absolute best

1 result that the Debtor could obtain, because no settlement can
2 ever represent that.

3 Instead, this is a compromise, where everybody gives a
4 little and everybody gets a little. And within that context,
5 no expert that comes in here after having spent 20 or 30 hours
6 doing their own analysis should be able to upset this apple
7 cart. And that's what you're going to hear from UBS's expert.
8 This is the only point that they really make, is that he did
9 his analysis and he thinks that the value is higher. And I
10 don't think that's the corpus of Rule 9019. It's the Debtor's
11 judgment. Is what the Debtor doing fair and reasonable? Has
12 the Debtor engaged in a process to educate itself? Has the
13 Debtor thoughtfully gone through negotiations? Is there a
14 rational basis for where the Debtor is coming out with? There
15 is no question as to all of those things.

16 And so those are the two big adjustments. Mr. Seery will
17 tell you that there was one other more modest adjustment that
18 was made, another million dollars in favor of the Debtor. But
19 that is the evidence that we plan on presenting, Your Honor.

20 We think that there will be no dispute that this
21 negotiation was arm's length, it was not the product of fraud
22 or collusion, and that it is in the paramount interest of the
23 Debtor and its estates and all constituents that this
24 litigation with the Redeemer Committee finally be brought to
25 an end.

1 I have no further comment, unless you have any questions,
2 Your Honor.

3 THE COURT: Thank you. I guess I should ask Ms.
4 Mascherin, before I go to Ms. Tomkowiak: Did you have
5 anything you wanted to say, as you represent the settling
6 party, obviously?

7 MS. MASCHERIN: Yes, Your Honor, I would appreciate
8 it if you'd allow me just a brief set of remarks.

9 THE COURT: Okay.

10 OPENING STATEMENT ON BEHALF OF THE REDEEMER COMMITTEE

11 MS. MASCHERIN: The standard, of course, that governs
12 us today is a familiar standard under Fifth Circuit law. In
13 the Debtor's papers, the Debtor has cited to *In re Cajun*
14 *Electric Power Co-Op, Incorporated*, 119 F.3d 349, a Fifth
15 Circuit decision from 1997. And the Fifth Circuit tells us
16 that approval is to be given to a settlement if it is fair and
17 equitable and in the best interest of the estate. And the
18 Fifth Circuit has guided courts to consider such issues as
19 probability of success in litigation, taking into account any
20 uncertainties in fact and in law; the complexity and likely
21 duration of a litigated resolution of the dispute, and any
22 attendant expense, inconvenience, and delay; and other
23 factors, such as whether the settlement would be in the best
24 interest of all creditors and whether the settlement was the
25 result of arm's-length negotiation.

1 Your Honor, I would -- I will submit that after you hear
2 Mr. Seery's testimony, and even in light of the Debtor's -- or
3 UBS's, rather -- effort now to turn this into a valuation
4 dispute over Cornerstone, that the Court will agree that this
5 settlement was in the reasonable business judgment of the
6 Debtor and is in the best interest of the creditors.

7 Just very briefly, Your Honor, the current state of
8 affairs is that the Redeemer Committee holds an arbitration
9 award entitling it to almost \$190 million in damages. As part
10 of that award, as Mr. Morris said, the Debtor is required to
11 pay \$48 million in principal plus an additional \$21 million in
12 pre-judgment interest to purchase the 42 percent minority
13 interest in Cornerstone that's held by the Crusader Fund.

14 In addition, under that award, the Redeemer Committee is
15 entitled to the cancellation of several limited partnership
16 interests in Crusader Funds which the panel found Highland
17 Capital Management had obtained by way of breaching the
18 Crusader Fund plan of liquidation and breaching its fiduciary
19 duties.

20 Only one small piece of that limited partnership interest
21 relief was challenged by the Debtor in the action to confirm
22 or vacate the award, and only one small piece of that, which
23 we'll refer to, I think, in arguments later, perhaps, is the
24 Barclay's claim for a limited partnership interest which
25 Highland transferred to its wholly-owned affiliate Eames,

1 E-A-M-E-S, is at issue in UBS's objection.

2 In addition to the relief that the Redeemer Committee was
3 granted in the arbitration award, Your Honor, the Crusader
4 Fund, as Mr. Morris says, has asserted its own separate claim
5 to claw back certain fees paid in the past to the Debtor and
6 also to avoid the payment of any further fees under what New
7 York law recognizes as the Faithless Servant Doctrine, which I
8 will submit there is ample findings in the arbitration awards
9 in this case of breaches of fiduciary duty, and New York law
10 holds that when a servant has been found to have breached its
11 fiduciary duties and acted unfaithfully, that servant is not
12 entitled to further compensation from the client -- in this
13 case, the Crusader Fund.

14 Now, all of that, as Mr. Morris notes, would be for
15 litigation many years from now upon complete liquidation of
16 the Crusader Fund, because the deferred fees that the Crusader
17 Fund would seek to avoid paying would not be payable in any
18 event unless and until the Fund -- the Crusader Fund was
19 completely liquidated, which, as Mr. Morris notes, could not
20 happen until this claim is fully paid, because this claim now
21 is -- will be the single largest claim -- the single largest
22 asset, rather -- of the Crusader Fund.

23 Your Honor, this compromise, this settlement, would be to
24 the benefit of the Debtor's estate for several reasons. First
25 and foremost, as Mr. Morris emphasized, it will end all

1 disputes between the Redeemer Committee and the Crusader Fund
2 on one hand and Highland Capital Management, the Debtor, on
3 the other, and would provide for releases of the Debtor and
4 several of its affiliates and employees in connection with the
5 settlement.

6 As a net matter, this compromise would reduce the amount
7 of the Redeemer Committee's damages claim to an allowed claim
8 of just over \$137 million, a reduction of over \$54 million
9 from the amount of the arbitration award.

10 This settlement would also allow a very modest claim to
11 the Crusader Funds of only \$15,000, Your Honor.

12 It would provide for the same relief as the arbitration
13 panel ordered with respect to the disputed limited partnership
14 interests, including the interests that is currently held by
15 the Debtor's wholly-owned affiliate, Eames.

16 And, significantly, it would also relieve the Debtor of
17 its obligation to purchase the shares of Cornerstone that are
18 held by the Crusader Fund -- as I mentioned, a 42 percent
19 minority interest in that company -- which otherwise, under
20 the terms of the award, the Debtor would be required to pay a
21 total of \$79 million to acquire. As Mr. Morris said and as I
22 believe Mr. Seery will testify, the Debtor doesn't have that
23 kind of money and has no interest in buying those shares. The
24 Debtor is in liquidation, and its interest is in monetizing
25 the 58 percent majority interest that it owns or controls in

1 Cornerstone.

2 And significantly, Your Honor, to that end, this
3 settlement also includes an agreement by my clients, the
4 Redeemer Committee and the Crusader Fund, to cooperate with
5 the Debtor so that the Cornerstone asset, the company as a
6 whole, can be monetized jointly. And we've even agreed upon
7 some terms, which I won't get into because they are
8 confidential, given that this is an asset that the Debtor will
9 be seeking to deal with in the future, but under those terms,
10 faithfully cooperate and will attempt to achieve a
11 monetization that would bring in substantial value of what the
12 Debtor could otherwise achieve holding a 58 percent interest
13 rather than a 100 percent interest in that asset.

14 So, Your Honor, in sum, I submit that this settlement was
15 in the reasonable business judgment of the Debtor and it amply
16 meets the requirements for approval that the Fifth Circuit set
17 forth in *In re Cajun Electric Power Co-Op*. Thank you.

18 THE COURT: All right. Thank you.

19 All right. Now I will go back to UBS. Ms. Tomkowiak? Am
20 I saying your name correctly? Correct me if I'm not.

21 MS. TOMKOWIAK: It's pretty close for a first try.

22 THE COURT: Okay.

23 MS. TOMKOWIAK: It's Tomkowiak.

24 THE COURT: Tomkowiak? Okay. Thank you. You may
25 proceed.

1 MS. TOMKOWIAK: Thank you, Your Honor. Before I
2 proceed, I did want to raise one housekeeping issue that
3 hopefully will not count against my time, but I think it's
4 important to resolve it before I do my opening statement.

5 As you just heard from both the Debtor and Redeemer's
6 counsel, part of the -- one of two very large issues in this
7 settlement relate to the value of Cornerstone, and
8 specifically the value of Crusader's ownership interest in
9 Cornerstone. The Debtor put -- assigned a value to that of
10 \$30.5 million, and they put that in their papers, they filed
11 that in court, they've said it here again here today, and
12 they've said that Mr. Seery intends to testify as to the
13 diligence that he purportedly did in order to arrive at that
14 number.

15 We've, you know, received documents from the Debtor and
16 Redeemer showing the valuations that were alluded to. The
17 numbers in those valuations are substantially higher. Our own
18 expert has also performed his own analysis of the valuations,
19 and his own valuation analysis, and we would like to be able
20 to testify to those numbers and talk about them.

21 Frankly, we're surprised that the Debtor doesn't want to
22 put those valuations into evidence, considering that it is the
23 Debtor's burden to show that the settlement had some rational
24 basis, as they just said.

25 But, and we have previewed that to the Debtor, and they

1 have expressed their views that those values and those
2 valuation reports are confidential and should not be part of
3 the public record. We think that is prejudicial. We think it
4 is prejudicial to put the lowest of the low of any of these
5 ranges into the public record without also being allowed --
6 allowing us to put on evidence that the true valuation is, in
7 fact, much higher.

8 Again, they put into the record that the perceived fair
9 market value of this asset, which is critical and central to
10 our objection and to their -- the value of the settlement and
11 whether or not it's fair and equitable, they've put that into
12 the record, and we would like to be able to get evidence into
13 the record relating to that number and relating to our
14 analysis of it and why we believe it's well, you know, below
15 any range of reasonableness.

16 We don't think it's confidential. We think it should all
17 be part of the public record. We do not object if the Court
18 wishes to proceed in some other manner, such as, you know,
19 sealing the courtroom, although, again, that's not our
20 preference. We would prefer to just be able to talk about the
21 evidence and the numbers. But we would welcome your Court's
22 guidance on this. You know, I believe, and I won't speak for
23 the Debtor's counsel, but I believe that that is -- was their
24 preference.

25 MR. MORRIS: May I be heard, Your Honor?

1 THE COURT: You may.

2 MR. MORRIS: Okay. Your Honor, the reports that are
3 being referred to are reports that were provided on a
4 confidential basis. They're stamped confidential. They were
5 produced pursuant to the protective order.

6 I'm a little confused as to why no effort has been made to
7 deal with the issue prior to the last 12 hours or so, because
8 (garbled). They received the documents as confidential
9 documents. There's no question about that.

10 And the important point here, Your Honor, is why are they
11 marked confidential. It's one thing to disclose a settlement
12 number. It's very different to disclose the analyses. There
13 may be discounts. There may be adjustments. We're about to
14 embark, if this settlement is approved, the Debtor and the
15 Redeemer Committee and the Crusader Funds are about to embark
16 on a sales and marketing process. That part is known to the
17 public. But the value, if the value -- I'm stunned that UBS
18 is surprised that we care. There's probably not many things
19 that we care about more than maintaining the confidence of the
20 value -- of our perception of value, how we get there, the
21 methodologies that were employed, and particularly when we're
22 about to go into the marketplace. And we believe this
23 information really does need to be kept confidential for that
24 reason.

25 The option that I can think of, Your Honor, and I know it

1 may not be popular with everybody here, but there is only one
2 objecting party. There's nobody else here. You've got your
3 statutory committee. You've got the U.S. Trustee. They've
4 got statutory obligations to continue to be part of the
5 process. You've got UBS and you've got the Debtor. I would
6 respectfully request that this part of the proceeding be
7 limited, or at least the portion when their expert witness is
8 testifying, because -- well, be limited to those folks, and
9 everybody else just has to go off the line. That would be my
10 proposal, Your Honor.

11 If this information gets into the marketplace, not only
12 the Debtor but the other stockholders, including the Crusader
13 Funds, will be harmed.

14 MS. MASCHERIN: Your Honor, may I speak?

15 THE COURT: You may.

16 MS. MASCHERIN: May I, just briefly?

17 THE COURT: You may.

18 MS. MASCHERIN: On behalf of the Crusader Funds and
19 the Redeemer Committee, Your Honor, I join in Mr. Morris's
20 objection. We have produced in discovery and UBS has included
21 on its exhibit list the independent third-party valuations
22 that the Crusader Fund has obtained, pursuant to strict
23 confidentiality obligations, with respect to the Crusader
24 Funds' shares in the Cornerstone asset, as well as highly
25 confidential portions of reports by the Crusader Funds'

1 manager to the Redeemer Committee concerning its opinions
2 regarding the value of that asset.

3 And we share the concern. And there should be a concern,
4 I think, Your Honor, with respect to anyone who cares about
5 the Debtor's ability to maximize the value of the Cornerstone
6 asset. The market should not see the confidential valuation
7 reports and other advice that the Debtor and my clients
8 considered when we negotiated this compromise.

9 THE COURT: Okay. Let me --

10 MS. TOMKOWIAK: Your Honor, may I --

11 THE COURT: Let me think about --

12 MS. TOMKOWIAK: May I briefly make just a couple
13 points?

14 THE COURT: Well, just a minute. Let me think about
15 the mechanics here. I know there was a declaration of your
16 expert submitted ahead of time. Have you filed under seal --
17 I've granted lots of sealing motions and I'm losing track --
18 have you filed under seal a valuation report of your expert?

19 MS. TOMKOWIAK: Your Honor, we have filed these
20 papers under seal, to be cautious. Again, we view that
21 differently than an open proceeding. These documents were on
22 our exhibit list. No one objected to them. Some of these
23 documents we did not have a chance to file because, although
24 we've been asking for them for a very long time, we've only
25 received them in the last, you know, 36, 24 hours.

1 So while some of them are under seal, there are other more
2 recent valuations that would not be. And, again, we have a
3 very different view here of what would or would not be harmful
4 to a sales process.

5 We believe it is incredibly more harmful and prejudicial
6 to have put in their motion, and I'm looking at it -- Page 10,
7 Paragraph 31 -- to say that there's a \$30.5 million perceived
8 fair market value of Crusader's 42 percent ownership in
9 Cornerstone, and then not be able to put into the public
10 record all of the numbers in these, you know, secret
11 valuations that suggest that it should be much, much higher
12 than that. Substantially higher than that. Double, triple
13 higher than that.

14 So that's our view. And, you know, again, we're willing
15 to proceed as the Court wishes, but, you know, we have a very
16 different view of who's really being harmed here, and, you
17 know, we think it's the estate and we think it's us.

18 THE COURT: All right. Well, what I was thinking is,
19 because this is going to be mechanically cumbersome and we're
20 not going to have complete certainty about the integrity of
21 the process if I say everyone has to leave the call except
22 UBS, Redeemer, the Debtor, and the Committee, there's always a
23 risk of someone somehow slipping by, I'm wondering if we can
24 have your witness later and he can testify about the under-
25 seal document without -- I don't know, can we have testimony

1 with him just referring to page whatever for the Court to look
2 at, without saying the numbers out loud? Is that a ridiculous
3 thought, or is that possible, do we all think?

4 MS. TOMKOWIAK: That might be possible, Your Honor,
5 when it comes to our witness. And it might be possible to,
6 for example, share slides with you in advance with respect to
7 both my opening and our experts so that only you could see
8 them but then we would talk about them vaguely.

9 I do, you know, I hesitate because we'd also like to use
10 these documents potentially in our cross-examination of Mr.
11 Seery. Again, we literally got some of these, you know,
12 yesterday. And so I'm not sure that that's -- entirely solves
13 the problem.

14 I mean, one other suggestion is that we could pause here
15 and switch to the Acis claim and try in the meantime to work
16 something out. You know, we've already proceeded down this
17 road, though.

18 MS. LAMBERT: Judge Jernigan?

19 THE COURT: Yes.

20 MS. LAMBERT: This is Lisa Lambert for the United
21 States Trustee. I had not anticipated needing to make an
22 appearance in this hearing, but the U.S. Trustee has asked for
23 sealed documents in this case, some of which have not been
24 sent. And in addition, we'd ask to be excluded specifically
25 as contemplated in the argument, but I wasn't sure the Court

1 was aware that we were on the call.

2 THE COURT: Okay. You're saying that if we have
3 sealed testimony or documents, the U.S. Trustee wants to be
4 included?

5 MS. LAMBERT: Yes.

6 THE COURT: Okay.

7 MS. LAMBERT: And for those who have not e-mailed
8 those documents, we would be grateful if there were e-mailed,
9 because I do not have all of them yet.

10 THE COURT: Okay. All right. This is a little bit
11 --

12 MR. MORRIS: Your Honor?

13 THE COURT: -- challenging -- Mr. Morris, I'm going
14 to go to you -- in a vacuum. I mean, I don't know what the
15 whole set of documents are. I mean, a part of me is torn
16 here. If we have the UBS expert's information out there for
17 public consumption, will that alone, in the Debtor's view,
18 chill the bidding process? I mean, this is one objecting
19 party's view of the world, and, you know, perhaps it would
20 simply be perceived as one objecting party's view of the world
21 and not the end-all be-all on value. What do you think?

22 MR. MORRIS: Yeah. You know, I know this is a little
23 unusual, Your Honor, but can Mr. Seery be heard since he is
24 the CEO? I don't want to put him under oath and do -- but I
25 think he can probably articulate much better than I can as to

1 the Debtor's concern. He's very familiar with the documents.
2 He's reviewed them. And I don't know if -- Mr. Seery, are you
3 able to hear me? Do you want to speak up on this particular
4 topic?

5 MR. SEERY: I can hear you, yes. If the Court can
6 hear me, if the Court wants to hear me, I'm happy to --

7 THE COURT: I would like --

8 MR. SEERY: -- describe what these documents are and
9 how they derive into this issue.

10 THE COURT: Please. Go ahead.

11 MR. SEERY: Your Honor, each month -- and this is not
12 unique to the Debtor -- with respect to what our view is of --
13 of the three -- two or three assets, the Debtor gets
14 valuations from a third-party service, in this case Houlihan
15 Lokey, which is probably the most prominent valuator of these
16 assets, these types of assets. They set a -- well, what we
17 call fair value. We use it for our NAV. Doesn't mean that
18 it's fair market value. It's their perception of what value
19 can be for these assets using various models and comparisons.

20 And we use those every month, we try to do it on a
21 consistent basis, and that's how we value all our liquid
22 assets.

23 Houlihan also does this service for a myriad of funds,
24 investment funds, as well as the retail funds that are smaller
25 affiliated with the Debtor but we don't control. So these

1 valuations for various assets go into the NAVs that those
2 entities produce.

3 Again, they're not fair market value, but perception using
4 models and desktop analysis as to what the value is, to allow
5 investors in the funds to understand movements in the value of
6 assets and get a sense of what the value may be.

7 In this case, the Debtor owns around three percent of
8 Cornerstone. RCP owns --

9 THE COURT: I'm sorry.

10 MR. SEERY: -- around 55 --

11 THE COURT: I got the math wrong. What is the
12 Debtor's ownership?

13 MR. SEERY: About three percent, Your Honor.

14 THE COURT: Okay.

15 MR. SEERY: RCP, which is a fund called Restoration
16 Capital Partners, --

17 THE COURT: Uh-huh.

18 MR. SEERY: -- we've dealt with a little bit in the
19 case before, is a fund with third-party investors mostly, a --
20 an interest by some Dondero-affiliated entities, and about 16
21 percent owned by the Debtor. That owns 55 percent of
22 Cornerstone.

23 So, roughly, the Debtor's derivative interest in the asset
24 is around 11 percent, 12 percent. In that neighborhood. The
25 rest is owned by Crusader.

1 UBS -- we provide these documents on a regular basis to
2 the Unsecured Creditors' Committee. UBS sits on that
3 Committee. Our confidential information we provide to the
4 Debtor and provide to the Committee, and have been doing
5 exclusively for months, contains various valuations using
6 these marks, and then what we think we can achieve for various
7 outcomes.

8 We're working with Cornerstone management to put in a
9 management retention program and enhance that opportunity for
10 them so that interests are aligned. We think that's in the
11 best interest of RCP, with whom -- manage the asset. We think
12 it's in the best interest for the estate and our interest.
13 Also in the best interest for Crusader.

14 We hope to then be able to go to the market. We may or
15 may not be able to go to the market. The market may not be
16 ready. It may not be the right time. We may have to do
17 different things to the asset to get it in the best condition
18 to sell it. We may have to even think about (inaudible) to
19 get the best value. Because we have a duty to RCP as well.
20 Releasing the detail that's in these NAV valuations that we
21 get from Houlihan every month would be extremely detrimental
22 to that process.

23 The interests of the Debtor, as I said, it's material, but
24 there's significant third-party interests here. Significant
25 third-party interests. For UBS -- these are not the types of

1 reports that ever are or should be released generally, and
2 they will have an effect on the sale process.

3 MR. MORRIS: Thank you, Mr. Seery.

4 THE COURT: All right. Well, let me go back.

5 MS. TOMKOWIAK: Your Honor, may I -- may I just real
6 briefly reply to that?

7 THE COURT: Let me ask you this first. Are we -- I
8 want to make sure I understand the universe of documents we're
9 talking about. Is it just your expert plus these Houlihan
10 documents?

11 MS. TOMKOWIAK: Well, yes, and a couple of other
12 documents that were produced by the Redeemer Committee. The
13 -- those documents, I think what's confidential about them is
14 that they refer back to these Houlihan valuations.

15 THE COURT: Okay. Isn't there a simpler answer to
16 all of this, and that is, if I don't have a Houlihan person,
17 if I don't have the person who created these documents, then
18 they're hearsay I shouldn't allow in.

19 MS. TOMKOWIAK: Well, Your Honor, but we're not --
20 we're not necessarily putting them in for the truth of what's
21 in them. In fact, we think what's in them is unreasonably low
22 and significantly flawed and inaccurate. But, you know, they
23 are relevant for other purposes, including the fact that they
24 are much, much higher than the perceived fair market value
25 that the Debtor put into their motion.

1 I was confused to hear Mr. Seery say that these don't show
2 anything about fair market value, and those were their words,
3 not ours. It's their burden to show that they had a rational
4 basis and sound business judgment in entering into this
5 settlement, so we are -- we should be allowed to explore with
6 Mr. Seery what, to quote the Debtor's counsel, what diligence
7 he did, including if he looked at these reports; why he didn't
8 accept the higher values that are in these reports; why he
9 took a value as of March, over six months ago, as opposed to
10 the much more recent values in these reports that show that
11 Cornerstone has continued to improve its performance. So, and
12 the -- of our expert, who is allowed to rely on hearsay and
13 allowed to explain what he did and what he reviewed in coming
14 to his own analysis that this asset is worth, you know, two to
15 three times the value that it's been assigned to it, the value
16 that the Debtor's estate is giving up and that Redeemer is
17 getting as part of this deal, which we just think is a
18 windfall. And I don't understand how the Court can have all
19 of the information available to make that independent judgment
20 without --

21 THE COURT: Okay.

22 MS. TOMKOWIAK: -- without seeking that information.

23 THE COURT: Okay. So I'm going to take --

24 MS. TOMKOWIAK: I mean, we want these assets to be
25 worth more. We want them to be able to monetize them and

1 maximize their recovery. We just -- we, again, disagree as to
2 what's more harmful, having one very low, incredibly low,
3 unreasonable number out in the public, or having, you know,
4 the -- all of the information out there in the public that
5 shows that the value of these assets is much higher.

6 THE COURT: Okay. Well, let's take this in chunks.
7 I'm not going to allow any evidence in regarding these
8 Houlihan reports. There was a way to do this, and I may or
9 may not have been amenable to this way, but you could have
10 subpoenaed the Houlihan person. I don't know what kind of
11 fight you would have had on your hand. Probably would have
12 had one. But without a Houlihan person to testify about this,
13 this is hearsay and I think it would be offered to prove the
14 truth of the matter asserted. So I'm not allowing the
15 Houlihan information in for that reason.

16 I'll say a couple of additional things. We have a
17 longstanding rule in this District that the Debtor can always
18 testify about value. Okay? So, it goes to, obviously, the
19 weight and credibility I give it, but -- so if he speaks about
20 value, he's entitled to speak about value. It's just how much
21 weight do I give it. He has the burden of proof.

22 The last thing I want to say on this topic is we all know
23 that, in a 9019 context, the Court is not technically required
24 to have a mini-trial. It needs to consider all facts and
25 circumstances that "bear on the wisdom of the settlement

1 proposed." But I think that is probably yet another reason to
2 keep this information out, that it's going a little bit beyond
3 what I think is necessary today. And, again, the Debtor is
4 either going to meet its burden or not. It has the burden.
5 So that's the Houlihan-related stuff.

6 You've alluded to Redeemer Committee or Crusader Fund
7 information. That's another category of stuff we're talking
8 about?

9 MS. TOMKOWIAK: Yes and no, Your Honor. I think we
10 also have presentations that were provided to the Crusader
11 Fund, I believe by Alvarez & Marsal, that show -- again,
12 discuss the valuation of Cornerstone as of particular dates,
13 and frankly, we believe, directly contradicts the testimony
14 that the Debtor has indicated that they intend to elicit from
15 Mr. Seery and shows how unreasonable the efforts were here.

16 THE COURT: All right. Well, I think my ruling needs
17 to be consistent, then, with the ruling with regard to the
18 Houlihan information. I don't have an Alvarez & Marsal
19 witness. It would be hearsay without the Alvarez & Marsal
20 person here to testify about it. I think it would be offered
21 for the truth of the matter asserted. And so I'm not going to
22 allow that.

23 So, does that bring us down to just this one category of
24 Mr. Moentmann and his work product?

25 MS. TOMKOWIAK: I believe so, Your Honor, in terms

1 of, you know, can he testify about his, you know, his own
2 valuation, his own analysis of what he believes that these
3 assets are worth and the flaws that he's identified in the
4 Houlihan valuations as well, which I think, with respect to
5 his own analysis, you know, I believe it would be helpful for
6 the Court to hear the numbers and, you know, the flaws in what
7 Houlihan has done. That's part of his opinions. And I think
8 he could do that without, you know, referencing specific
9 numbers, if that's what the Court would prefer.

10 THE COURT: All right. So I'm going to go back again
11 to Mr. Morris and Ms. Mascherin. I'm inclined to let Mr.
12 Moentmann testify, and I can -- he can refer to his report
13 that's here under seal. And as long as he doesn't make
14 references to numbers of Houlihan, Alvarez & Marsal, I'm not
15 sure I'm convinced it would hurt the future marketing effort.
16 Again, wouldn't the market just say this is one objector's
17 opinion and they either give it weight or not?

18 MR. MORRIS: Your Honor, I probably should have said
19 this earlier. I am going to have a very short *voir dire*. And
20 I think, you know, if you would allow me to do that, the
21 Debtor expects to move to exclude this witness in its
22 entirety, in his entirety. He's a lovely man, I'm sure he
23 knows his work very well, but I don't think it's worth the
24 time, money, and effort to continue down this path on a 9019
25 motion. And so we will be making that motion.

1 I suppose if that motion is denied, you know, if he can be
2 limited in the manner you're describing, we could probably
3 live with that. But we do intend to make that motion.

4 THE COURT: All right. Ms. Mascherin, anything to
5 add?

6 MS. MASCHERIN: No, Your Honor.

7 THE COURT: Okay. So that is the path we'll take.
8 We'll let Ms. Tomkowiak call Mr. Moentmann. We'll either
9 allow it or exclude it depending on where I go on that
10 request. And then, if he does testify, he will be directed to
11 just cross-reference his report that's here under seal and not
12 mention numbers of other experts that he may be critical of.

13 All right. So, with that, Ms. Tomkowiak, you may make
14 your opening statement.

15 OPENING STATEMENT ON BEHALF OF UBS SECURITIES, LLC

16 MS. TOMKOWIAK: Okay. Thank you, Your Honor. And to
17 -- just to be crystal clear, I do intend in that statement to
18 refer to the conclusions, his own, not those of anybody else.

19 THE COURT: All right.

20 (Pause.)

21 MS. TOMKOWIAK: Your Honor, as I -- I also appreciate
22 you taking the time to read all of our papers. As you know,
23 UBS strongly believes that the settlement is not fair, it is
24 not equitable, and it is not in the best interest of the
25 estate.

1 It is the Debtor's burden, that nobody disagrees about
2 that, to show that it has exercised business judgment within a
3 range of reasonableness. And the Debtor has not submitted to
4 this Court any evidence whatsoever to meet that burden. The
5 Debtor -- Mr. Seery testified at his deposition that he agreed
6 that the only thing before the Court to determine whether or
7 not the settlement is fair and equitable is their motion and
8 that's it.

9 As you've observed, no one from Houlihan Lokey intends to
10 come here and testify today. There is no evidence before you
11 to independently evaluate the true value of these two very
12 large issues, as the Debtor's counsel described them. It's
13 just Mr. Seery and his say so of what he thinks is reasonable.
14 And we don't think that that is enough to show that the
15 settlement is reasonable, we think there's been a complete
16 abdication of business judgment here, and we don't think this
17 is in the best interest of the estate.

18 We believe that the Debtor and Redeemer have negotiated a
19 sweetheart deal, frankly, that gives Redeemer a ginormous
20 windfall and deprives the estate of its right to these
21 meaningful assets that could be available to UBS and to other
22 creditors.

23 And, so, yes, in addition to harming the estate, this deal
24 is absolutely to the detriment of UBS, and we are a
25 significant unsecured creditor whose rights are affected by

1 this deal. Our views must be taken into consideration under
2 the Fifth Circuit law that Ms. Mascherin cited to. And
3 respectfully, we just don't think that the Debtor has met its
4 burden for giving Your Honor the full picture necessary to
5 fully understand the value of this settlement compared to the
6 arbitration award on which it's supposedly based.

7 I wanted to briefly talk a little bit about that
8 arbitration award, if you can go to the next slide. So,
9 again, that we all agree that the claim is based upon an
10 arbitration award. No court has ever confirmed this award.
11 It's not a final judgment. I want to walk you briefly through
12 the components of that award as they're relevant here. So,
13 Gail, if you could pull that up.

14 You know, Redeemer asserted a number of claims against
15 Highland and they're laid out here, including the panel's
16 findings. The first row is the uncontested claims. And by
17 that, I mean that, you know, no one has disputed that portions
18 of them should be subject to vacatur in Delaware law.

19 The next component, there are legal fees and costs that
20 the panel awarded to Redeemer. Next, we have the deferred fee
21 claim. And this was alluded to in the openings of the Debtor
22 and Redeemer as well. And the panel agreed with Redeemer that
23 Highland had, to quote the Debtor's counsel, helped itself to
24 over \$32 million in fees that were supposed to be deferred
25 until the end of liquidation of the Crusader Fund.

1 The panel awarded Redeemer damages, but it did not relieve
2 Redeemer of its obligation to pay the Debtor those fees in the
3 future when they are due. And I don't think that is
4 reasonably in dispute here.

5 The Cornerstone award, as we've all acknowledged, that was
6 a finding by the panel that Highland did not act appropriately
7 in liquidating Cornerstone and Crusader's interest in
8 Cornerstone. And so the panel awarded Redeemer nearly \$70
9 million for that claim. Or, I'm sorry, over \$70 million for
10 that claim. And that was based on the panel's view at the
11 time, around a year or so ago, that the fair market value of
12 Crusader's interest in Cornerstone was \$48 million,
13 approximately, and then plus pre-judgment interest, for a
14 total of \$71 million.

15 And then there was also this claim relating to the
16 Barclay's interest. This particular award was included by the
17 panel as a modification to its first final award. That second
18 final award also increased the amount of pre-judgment interest
19 that Redeemer was receiving under the arbitration award by
20 extending the period of time by which they could receive that.

21 It's that portion of the Barclay's claim here, which is
22 approximately \$30 million, and then another \$6 million of pre-
23 judgment interest. That is the subject of the motion to
24 vacate that was filed in Delaware a long time ago and was set
25 to be heard the day that the Debtor filed this case for

1 bankruptcy.

2 So, the sum of these components, in terms of what Redeemer
3 was owed, is approximately \$190 million, but the story does
4 not end there, as the Debtor and Redeemer would like you to
5 believe. And I think, in fact, they acknowledge, you know,
6 this is not a straightforward arbitration award, because there
7 are reciprocal obligations that Redeemer still owed to the
8 Debtor. And Gail, if you could click here.

9 So, what's reflected here are the various setoffs and
10 other issues that we believe you need to consider when you
11 think about the true value of the arbitration award. So the
12 first one is the Cornerstone shares. We all agree that the
13 arbitration award required -- required Redeemer,
14 simultaneously with payment of the damages award, to give
15 back, to tender back to the Debtor, absolutely no question,
16 not in dispute, they were required to give those shares back
17 to the Debtor.

18 And so we've assigned here, just for purposes about
19 thinking about the arbitration award at the time it was
20 issued, a value of \$48 million, which, again, is the fair
21 market value that the panel concluded was appropriate for
22 Cornerstone at the time this award was issued, which, again,
23 was a long time ago.

24 And then there was the payment of deferred fees. I think
25 you heard a lot about those today. These are the fees that,

1 again, the panel found that Highland took them too soon, but
2 they are required to get -- they are -- they have a right to
3 get them at some future point in time when the Crusader Funds
4 are fully liquidated. And so nothing about the arbitration
5 award relieved Redeemer of its obligation to pay those fees,
6 even though, necessarily, and as you can see by their name,
7 they were deferred until some future point in time.

8 And then finally here, you know, any -- we -- there's a
9 certain amount of contested claims. And, again, that relates
10 to the Barclay's claim and with respect to the amount of pre-
11 judgment interest that was included in the second final award.

12 That -- you know, Mr. Seery, I think, testified at his
13 deposition that he believed they had little chance of
14 succeeding on that motion, and they've assigned that zero
15 value in their settlement and gave one hundred percent of the
16 value of that to Redeemer. We believe that's inappropriate
17 and we believe that even if you take 50-50, although, you
18 know, we think it should be higher than that, but even if you
19 just assume for settlement purposes that they might win that
20 issue, they might lose that issue, and you take 50 percent of
21 those contested amounts that are subject to vacatur by the
22 Delaware Court, or frankly, by this Court, then, accounting
23 for that litigation risk, you should remove another \$18
24 million from the value of this arbitration award.

25 And so, at the end of the day, you've got an adjusted

1 award of around \$90 million, and that's what we believe is the
2 true value of the award.

3 If you go to the next slide. We really just have two
4 large problems with the proposed settlement. The first is the
5 Cornerstone shares. And, again, without getting into the
6 numbers, they are -- indisputably, the Debtor's fair market
7 value calculation is based on the very lowest end of the
8 valuation range prepared by Houlihan Lokey for Crusader, not
9 the Debtor. It's a bit confusing, but Houlihan Lokey actually
10 provided two different valuations: one for Crusader, one for
11 the Debtor. They used the one provided for Crusader, and they
12 took the very lowest end of that range as of March 2020. They
13 did it despite having a different valuation that had a higher
14 range and despite the Debtor's own policy of typically marking
15 assets at the mid-point.

16 They provided no basis for using a valuation in March,
17 when the COVID pandemic was in its very initial stages. The
18 market was very, very low. They've only said and we expect
19 Mr. Seery to testify that, well, that's when the parties first
20 started negotiating this deal. But the settlement wasn't
21 finalized until, you know, six months later, and the Debtor is
22 not bound by that valuation or some handshake deal. They
23 could have but they did not insist that more current numbers
24 were used.

25 And our expert, you know, we intend to offer his testimony

1 that they've used some very flawed assumptions and that the
2 30.5 is well below any range of reasonableness that you could
3 assign to the shares.

4 And then really the -- you know, we don't think that the
5 Debtor has appropriately taken litigation risk into account.
6 You know, they've given a very large litigation discount for a
7 claim regarding the deferred fees and this applicability of
8 the Faithless Servant Doctrine that hasn't even been filed. I
9 mean, that -- that litigation is hypothetical. It's not
10 pending. It's a future dispute that isn't even ripe yet. And
11 yet they've applied a very large litigation discount for that
12 claim.

13 Conversely, they've applied a zero litigation discount for
14 a claim that has been fully briefed to the Delaware court in
15 the form of a motion to vacate. And again, inexplicably, they
16 just (inaudible) amount and provided Redeemer with a hundred
17 percent of the value of that claim.

18 Can you go to the next slide?

19 You will hear from our expert, Mr. Moentmann. He's a
20 principal at Grant Thornton. He has over 30 years of
21 experience in valuations. He specializes in healthcare
22 valuations.

23 I heard Ms. Mascherin say that we would like to turn this
24 into a valuation case. Well, frankly, we don't see how
25 valuation is not relevant when the settlement includes the

1 forfeiture of a very, very meaningful asset such as
2 Cornerstone.

3 He's going to testify, again, that, in his opinion, when
4 he has looked at all of the information and corrected for
5 these assumptions, that the true value of Crusader's ownership
6 in Cornerstone as of June is, you know, as great as -- as much
7 as triple the value that has been assigned to it by Highland
8 as the "perceived fair market value."

9 We believe that this is the value that the estate is
10 giving up. The estate has the right to those shares, and we
11 believe that in forfeiting the right to them they're giving up
12 a meaningful asset that -- that's -- has a much greater value
13 than the amount taken into account by -- in the settlement.

14 And by the way, no one disputes that this asset is
15 performing better today than it was in June, and certainly
16 than it was in March, when they took the very, very lowest of
17 the range of valuations done at that time.

18 What that means is that, under the proposed settlement,
19 Redeemer actually does far better than it ever could under the
20 underlying arbitration award.

21 And if we can go to the next slide, where I have hopefully
22 provided redacted -- yep. And what that means is what the
23 Debtor has said and what Mr. Seery has testified is that he
24 expects the Debtor to be solvent. He expects that Redeemer
25 will recover one hundred percent of its allowed claim in real

1 or one hundred dollars. And so what that means here is that
2 they get to keep their \$137 million allowed claim. They're
3 receiving a release of their obligation to pay \$32.3 million
4 in deferred fees --

5 MS. MASCHERIN: I'm sorry, Your Honor. I must
6 object. This line I believe at the bottom essentially
7 includes the same, if you do the math, the very same values
8 that are discussed in the confidential documents that were
9 just the subject of their sidebar discussion.

10 THE COURT: All right. That does seem to be the
11 case, Ms. Tomkowiak. Agree? I can go backwards and figure
12 out --

13 MS. TOMKOWIAK: Yes, I do apologize. We --

14 THE COURT: -- what that redacted number is. So,
15 yes, move on to another screen, please.

16 MS. TOMKOWIAK: We redacted these on the fly, Your
17 Honor, and we just didn't redact the full column.

18 THE COURT: Okay.

19 MS. TOMKOWIAK: So we apologize for that. I believe
20 it has now been fixed.

21 THE COURT: Okay.

22 MS. TOMKOWIAK: Sarah, does that address your
23 concern? So, --

24 MS. MASCHERIN: No, that's -- no, you're -- you still
25 have a reference in the last column, Counsel.

1 MS. TOMKOWIAK: The 30.5? That's public. That is --

2 MS. MASCHERIN: No, the other number, Counsel. The
3 other number comes from confidential documents.

4 THE COURT: Okay. I thought the --

5 MS. MASCHERIN: Unless I was misreading it.

6 THE COURT: I think it was Grant Thornton. There was
7 a -- there was the public number, the 30.5 March number, and
8 then there was the Grant Thornton number. I think she revised
9 it where those were the only two remaining, correct?

10 MS. TOMKOWIAK: Correct.

11 THE COURT: Okay.

12 MS. MASCHERIN: I apologize, Your Honor. I misread
13 it.

14 THE COURT: Okay. Go ahead.

15 MS. TOMKOWIAK: Okay. Gail, if you could put that
16 back up.

17 The bottom line, then, Your Honor, is that when you take
18 into account one hundred percent recovery in real dollars on
19 the allowed claim, release of the obligation to pay \$32.3
20 million in deferred fees in the future, retaining Crusader's
21 interest in Cornerstone as opposed to giving it back to the
22 estates, we believe that Redeemer could be receiving an actual
23 recovery of over one hundred percent of its filed claim under
24 the arbitration award. Grant Thornton's estimate, you know,
25 over \$60 million -- \$60 million over its allowed claim.

1 But even, even using the 30.5 perceived market value that
2 the Debtor assigned to Cornerstone in the settlement, they
3 still recover more than one hundred percent on their claim, as
4 reflected in that Final column.

5 THE COURT: All right. Ms. Tomkowiak, we have gone
6 well over the ten minutes. I know there have been lots of
7 starts and stops, but you need to wrap it up pretty soon.
8 Okay?

9 MS. TOMKOWIAK: Will do. Absolutely. All right.
10 And I guess I'll just -- I don't -- I don't have any more
11 slides.

12 I will just say that there's a genuine dispute, I think
13 that is apparent now, about the value of Cornerstone. We
14 don't think the Debtor has provided the Court with any
15 evidence, let alone sufficient evidence to accept their
16 valuation of this asset. We don't think Mr. Seery will
17 testify that he's ever talked to Houlihan about this
18 valuation. Houlihan is not here to defend their methodology.
19 And we, fundamentally, we agree that settlement is desirable,
20 we understand that, particularly here in this complex case,
21 and that it is tempting to approve and allow all of this
22 litigation to go away.

23 Quite frankly, UBS still believes that its claim can be
24 settled and the mediation is still open and we're hopeful that
25 we can resolve our claim, too, and we're making every effort

1 to do that. But this, this settlement is designed to overpay
2 Redeemer, frankly. We feel like it has bought their support
3 and they're working together with the Debtor to object to our
4 claim.

5 We think that, at minimum, the settlement should not be
6 approved without further information being provided to the
7 Court in the form of real evidence or an independent valuation
8 of Cornerstone being done.

9 Alternatively, Your Honor, the final thing I will say is
10 that, in the alternative, if Your Honor is inclined to approve
11 the settlement, the -- one of the terms of the settlement
12 requires the -- Redeemer and the Debtor to work together to
13 sell Cornerstone over a period of time. In the event that
14 sale occurs and the purchase price is, as UBS suspects it will
15 be, well above the value that's been calculated by the Debtor,
16 then we believe that it would be appropriate for the Court to
17 take Crusader's proceeds of that sale into consideration at
18 the time of plan confirmation, when distributions are to be
19 made, and any upside should be taken into account when
20 calculating Redeemer's actual recovery.

21 THE COURT: All right.

22 MS. TOMKOWIAK: I appreciate your indulgence, Your
23 Honor, and that's all I have.

24 THE COURT: All right. Thank you. Mr. Morris, shall
25 we go ahead and have Mr. Seery testify now?

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1 MR. MORRIS: I'd be delighted.

2 THE COURT: All right. Mr. Seery, welcome back. I
3 need to swear you in. Please raise your right hand.

4 JAMES P. SEERY, DEBTOR'S WITNESS, SWORN

5 THE COURT: All right. Thank you. You may proceed.

6 THE WITNESS: Can you hear me, Your Honor?

7 THE COURT: We can hear you loud and clear. Thank
8 you.

9 MR. MORRIS: Thank you.

10 DIRECT EXAMINATION

11 BY MR. MORRIS:

12 Q Good morning, Mr. Seery. Before we get into the
13 substance, let me just ask you. Is it your -- have you rolled
14 over here?

15 A I'm not known for that. The answer is no.

16 Q Okay. When were you appointed an independent director?

17 A In January of this year.

18 Q Okay. And you were appointed as the CEO in July; is that
19 right?

20 A That's correct.

21 Q And the Court approved that in the form of an order; is
22 that right?

23 A Yes, it is.

24 Q Okay. I want to move this along as efficiently as I can,
25 so let me ask you an open-ended question: Can you describe

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1 for the Court the diligence that you and the independent
2 directors did to familiarize yourself with the claims that are
3 being made by the Redeemer Committee and the Crusader Funds?

4 A Yes. From the start, and obviously we have several
5 litigation claims, but Redeemer was a significant litigation
6 claim and they sit on the Committee. So right from the start,
7 even before the appointment as an independent director, I and
8 I'm relatively certain Mr. Dubel, read the Redeemer partial
9 arbitration award and then the final arbitration award. After
10 our appointment and our selection of Mr. Nelms as the third
11 director, I am quite sure that Mr. Nelms did the same thing.

12 So we looked at the awards, investigated with the Debtor's
13 team the underlying nature of the awards, what led to the
14 disputes. Then we worked with counsel, going through the
15 underlying case issues that the arbitration raised. And in
16 particular, the disputes between the partial final award and
17 the final award.

18 And that took place through our initial appointment, after
19 we got our feet wet, as I said, early in February and in
20 March, because we thought this was one of the key issues we
21 had to determine: Would we continue to litigate with Redeemer
22 or would we seek to reach an accommodation and a compromise
23 with respect to their arbitration award?

24 Q And did counsel provide you with written analyses,
25 including advice concerning the nature and scope of the

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1 Redeemer Committee's arbitration award?

2 A As with each of the claims that we've looked at, we've had
3 counsel, and I think the time records reflect it, do
4 significant work researching the underlying claims, getting to
5 know the underlying case law. In this case, looking at the
6 arbitration awards. Thinking about the defenses. Thinking
7 about and analyzing the issues that Highland raised,
8 challenging the final award. Analyzing the situation of the
9 Delaware Chancery Court, including the appeals. And then
10 report to us as an independent board on those issues.

11 Our practice -- you know, I don't have a specific
12 recollection if this is the case of every one of the claims --
13 our practice is to have a board meeting after those documents
14 that counsel's produced have been reviewed. Our practice is
15 to challenge them. Our practice is to challenge them quite
16 vigorously and send counsel back to do more work and hopefully
17 educate us in a way that we have a good understanding of the
18 risks and rewards with respect to various options with respect
19 to each of the litigation claims.

20 Q And did the board spend time and did you personally spend
21 time considering and getting advice on the issue of the
22 Faithless Servant defense?

23 A We did. To be frank, it's one that, despite having a lot
24 of experience in these areas, I had not heard of it before.
25 So the board requested that counsel do research and provide

1 additional written information regarding the defense, its
2 likelihood of success, and particularly with respect to the
3 facts that are outlined in the partial award and in the final
4 award and how those might impact attempts that we would have
5 to get around that defense.

6 Q All right. Let's shift from the diligence that you and
7 your fellow board members did to the manner of the
8 negotiations. Did you (audio gap) participate in the
9 negotiations?

10 A I'm sorry. There was a -- there was a beep.

11 Q Did you -- do you have personal knowledge as to the
12 negotiations that led to the agreement?

13 A I did, yes.

14 Q All right. Again, can you just describe in general terms
15 for the Court the process that the Debtor undertook in
16 negotiating the agreement that led to this motion?

17 A Well, there was extensive back and forth, as I think
18 everyone in the case knows, that we started with a hundred
19 percent case, and we negotiated that with Redeemer very
20 aggressively. Redeemer brought in Crusader at times. We
21 negotiated various points to -- where they gave and we did,
22 back and forth. We went back and did additional research on
23 some of their claims with respect to -- and particularly with
24 respect to the interests, which we can get into in detail,
25 that are extinguished in the award. We spent a ton of time

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1 not only with our counsel but also with the Highland team to
2 understand the underlying history, how those interests were
3 obtained, whether they -- what did they cost when they
4 originally purchased them, how they potentially were found to
5 violate the -- the scheme. And then negotiated those points
6 with Redeemer.

7 Q And just to complete the record, did you personally speak
8 with one or more principals who were representing the
9 interests of the Redeemer Committee to negotiate any aspect of
10 the settlement?

11 A I did. We had many discussions, all telephonic,
12 negotiating the particular terms. We also had a number of
13 meetings with counsel with the entire board, with the
14 professional -- the personnel who represented Redeemer plus
15 their professionals, plus counsel and representatives of
16 Crusader in Zoom calls. So there were multiple sessions, both
17 on the phone directly with the Redeemer principal who sits on
18 the Committee as well as with the Redeemer principal and his
19 counsel.

20 Q All right. Let's talk about the adjustments that were
21 made to the gross value of the arbitration award of \$190
22 million. Just to identify them, they include the issue of the
23 deferred fee. Do I have that right?

24 A Yes. I think you summarized it in the opening quite well.
25 Highland had, in the scheme that was approved originally to

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1 liquidate the Crusader Fund, Highland had agreed to a fee
2 arrangement where the vast majority of the fees were deferred,
3 and they were deferred until the end of the liquidation --
4 *i.e.*, until all of the assets in the Crusader Fund had been
5 liquidated and funds were distributed, and then Highland would
6 be entitled to receive its fees. And along the lines, for a
7 variety of reasons that the arbitration panel did not give
8 much credence to, Highland took them before the end of the
9 liquidation.

10 Q And did the Debtor decide to reach a compromise with
11 respect to the amount of fees that it might have been owed had
12 it successfully requested them at the end of the day?

13 A We did. We obviously, or maybe not so obviously, but we
14 did start with asking for the full reduction, with the
15 argument that this liquidation will get done quickly, we've
16 only got a couple assets left in Crusader, and we should be
17 entitled to the full setoff.

18 Redeemer's position and Crusader's position was, wait a
19 second, you're asking us to pay you fees on account of a
20 scheme that you were breaching while you were supposedly
21 earning these fees, and then you took the fees that you earned
22 while you breached it early. And they were of the belief that
23 they did not have to pay any of those fees. So we negotiated
24 off of those two positions.

25 The arbitration award does not deal with the fees. It

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1 talks about the repayment of the \$32 million plus the
2 interest, but it doesn't say what happens later. And it's a
3 -- it's a failing or (inaudible) in this, you know, for
4 Highland, but it doesn't -- it certainly doesn't give Highland
5 the award of the fees.

6 And we had similar arguments with respect to briefing
7 before the panel, arguments before the panel, where we were
8 arguing that we were -- we'd be entitled to get those fees at
9 the end, and that Redeemer and Crusader knew it, but there
10 were some holes in those arguments.

11 Q Let's see if we can identify that. Ultimately, the board
12 agreed with the Redeemer Committee and the Crusader Fund to
13 accept a credit today for two-thirds the value of the total
14 deferred fee; is that right?

15 A That's the math in terms of what the reduction in the
16 claim is. It was hard-fought in that we wanted to make a
17 decision if we could get a full settlement with a number of
18 components or whether we would try to get pieces and litigate
19 the other piece. Redeemer wasn't interested in a partial
20 settlement. It was either full or litigate. And that left
21 us, we thought, exposed, both with respect to the time and
22 cost as well as the risk of a complete loss, which we factored
23 into our settlement.

24 Among other things, you know, and this will permeate the
25 case, and we'll talk about it with Acis as well, this case,

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1 the business runs the way it runs. It does have revenues and
2 the team does provide service to a number of counterparties
3 and they do a great job. So the employees of Highland are
4 able to execute and perform a valuable service to their shared
5 service counterparties and the funds to which they provide
6 investment management services. But these litigations have
7 been hanging over this case for most of ten years. And it's
8 remarkable in that, every time we try to settle one, someone
9 else wants to keep them going.

10 Q All right. Let's just talk about some of the factors that
11 the Debtor considered or may have considered in agreeing to
12 the compromise that you've described. Did the Debtor take
13 into account the possibility that if there was no agreement
14 that there would be a separate litigation on the question of
15 setoff and how the compensation would have been -- how the
16 compensation would go back and forth?

17 A Certainly. And we considered -- we considered whether
18 that litigation would happen in the Bankruptcy Court in front
19 of Judge Jernigan or whether we would be sent back to the
20 aforementioned Chancery Court, which as counsel for UBS noted,
21 those arguments have already been briefed. And the risks with
22 respect to both avenues in terms of pursuing a -- either a
23 knockout win or a partial win, the time delay, and then the
24 risk of a knockout loss or a partial loss.

25 And so we thought about that with respect to each of the

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1 settlement components.

2 Q All right. So, under the agreement, will the Debtor get
3 the value of \$21 million with respect to the deferred fees
4 immediately upon the allowance of the claim?

5 A Well, it reduces the claim. So I think that that's a fair
6 -- that's a fair way to look at it. And each of the board
7 members analyzed it with that perspective.

8 Q And did you and the board members try to make any
9 determination as to how long the Debtor would have to wait
10 before it had the opportunity to request or demand the
11 deferred fee?

12 A We did. It's hard to estimate. So I think that it's, in
13 a vacuum, the Crusader Fund should be able to liquidate pretty
14 quickly. The problem is that the Crusader Fund's liquidation
15 are tied to Highland's liquidation or monetization. And the
16 timing on that, depending on the parties, can be uncertain.
17 We would hope to be able to monetize the assets quickly, but
18 we also are contemplating a litigation trustee. And as we've
19 seen, that -- that litigation can take some time with these
20 parties.

21 In addition, while we -- we had a grand bargain
22 opportunity, we continue to negotiate with Mr. Dondero, who's
23 made a material effort with his counsel on an ongoing but
24 certainly a recent movement. And that could expedite it.
25 It's very uncertain as to how long -- how long a complete

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1 liquidation would take. If we -- if we were able to reach an
2 agreement with Mr. Dondero, we hopefully can, at least with
3 respect to part of the case, resolve it quickly. And I think
4 that that would be more of a pot plan type approach.

5 The problem with a pot plan is that we still have a number
6 of unresolved litigation claims that will take time to
7 resolve.

8 Q All right. So let's just focus on what would happen if we
9 didn't have the agreement. And just assume for the sake of
10 argument that at some point in the future, however many years
11 that may be, the Crusader Fund has completed its liquidation.
12 Do you have any reason to believe that at that time the
13 Crusader Fund would roll over and no longer assert the
14 Faithless Servant defense in the face of a demand for the
15 deferred fee?

16 A Well, I guess you'd have to look at it two ways. If -- if
17 the fees do not reduce the Crusader claim, Redeemer's claim,
18 then there would be nothing to roll over on. Because what's
19 really important that everybody has to understand is Highland
20 got the fees. It took them. It took the cash. And so the
21 only -- the only way that you have a deferral of recovery of
22 that fees, those fees, is if you pay back hundred-cent dollars
23 to Redeemer and Crusader, which would include the \$32 million
24 plus the interest.

25 Q Okay. Are there any other reasons that you can think of

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1 at this time that the board and you as CEO took into account
2 in deciding on the compromise of the deferred fee issue?

3 A Of the fee component? Well, I think -- I think that --
4 that really summarized it. It's not that complex. The only
5 -- the complexity is really if you consider not settling, what
6 are your avenues to, if you will, be able to keep the full
7 amount of the fees and interest.

8 Q So, would it be fair to describe it as taking a certain
9 two-thirds of the fee today rather than a speculative chance
10 of getting a full fee at some undetermined time in the future,
11 after spending money to litigate the Faithless Servant
12 defense?

13 A I think that that -- that's very -- to be honest, it may
14 cabin it too much. We looked at this as a total settlement.
15 And so it's not just one piece. And in an effort to move this
16 case forward, we looked for the reasonableness of each
17 transaction as a whole, and I think that's a more full way to
18 look at it. We could litigate with Redeemer and Crusader for
19 another two years, maybe. I'm sure that there's ways to keep
20 it going and diminish all the assets of the estate in
21 litigation costs. But we thought that this was a fair and
22 equitable settlement as a whole, and this component we thought
23 was pretty straightforward. Getting the full amount of fees,
24 which we would have liked, we thought was not something that
25 we had much success -- much chance of a success if we

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1 litigated this.

2 Q Okay. Let's shift to Cornerstone. Can you just describe
3 for the Court what Cornerstone is and who the stakeholders
4 are. I think you -- I think you may have (garbled), but just
5 for context.

6 A Cornerstone is a portfolio company. It's Cornerstone
7 Healthcare Group. It's a portfolio company of Highland, in
8 that Highland owns about three percent of the equity.
9 Restoration Capital Partners, which is a liquidating fund, and
10 Highland, as the advisor to that fund, owns about 55 percent,
11 and Crusader owns about 52 [sic] percent. Cornerstone
12 operates in the LTAC space, which is Long Term Acute Care,
13 Senior, and Behavior Health. Senior living. And it has a
14 home hospice, a smaller home hospice and home -- home business
15 that also helps with rehab, and which -- and some of those are
16 newer acquisitions.

17 It's a -- it's a company that I believe Highland first got
18 involved with in 2007, I believe. And so it's been another
19 asset that's a long-term holding. We have a solid management
20 team. We like the -- we like the team a lot. We think that
21 they've performed and done a great job in incredibly difficult
22 circumstances, you know, through the first half of this year.
23 Against -- against that, some of the related entities, the
24 CLOs, have a loan, a term loan, and there's also other
25 mortgage debt and equipment financing at Cornerstone.

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1 Q And do you understand that the Crusader Fund's interest in
2 Cornerstone is a subject of the arbitration award?

3 A Yes.

4 Q And can you describe for the Court your understanding of
5 what the panel found and determined with respect to that
6 asset?

7 A The panel found that basically Highland has an obligation
8 to purchase Cornerstone back from -- those Cornerstone shares
9 back from Crusader. And it assigned a value of \$48 million to
10 those shares, which was considerably in excess of fair market
11 value at the time of the award, we believed, as well as at all
12 times since then.

13 Q And you reached an agreement with the Redeemer Committee
14 on the treatment of the Crusader Fund's interest in
15 Cornerstone; is that right?

16 A Yes.

17 Q Can you describe the treatment of that interest for the
18 Court?

19 A What we agreed with Crusader is that we wouldn't buy back
20 the shares, because we don't have the capital to do that, that
21 we would reduce their total claim by about \$30 million.

22 Q Okay. Before we get to that specific point, are there
23 other aspects of the settlement agreement that concern the
24 Cornerstone asset?

25 A Well, we -- the other piece of Cornerstone is really a

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1 Crusader issue. As I laid out the share holdings, the
2 combined Highland interest, if you will, is about 58 percent.
3 Crusader's is 42 percent. This is a private company. It does
4 not trade. It -- it is -- it was controlled by the majority
5 shareholders. And Crusader was interested in trying to find
6 some liquidity in either their shares --

7 (Audio cuts out.)

8 THE COURT: Uh-huh. Mr. Seery?

9 THE WITNESS: And so we --

10 THE COURT: Mr. Seery, we lost you for about 20
11 seconds there. You were speaking but we couldn't hear you.
12 So repeat the last 20 seconds, please.

13 THE WITNESS: I'm sorry. I'm sorry, Your Honor.

14 That cut out. Highland owns or controls 58 percent, with RCP
15 as the main holder in Highland holding about three percent.
16 Highland's the manager for RCP. Crusader is a minority
17 holder. It has 42 percent. It really has no say or control
18 over the company and what it does.

19 Crusader was looking to create the opportunity to either
20 get real liquidity in for this interest, not just us reducing
21 our claim, or -- or at least the appearance of that, frankly.
22 And so what we have agreed is that, since RCP is actually a
23 liquidating fund and we want to monetize the asset, that we
24 will work with Crusader to try to monetize Cornerstone in
25 2021.

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1 Now, it -- there's -- the way the agreement works is that
2 we'll work in good faith to try to do that. If we're not able
3 to do that, there's really no -- there's no breach. There's
4 no -- there's no damages. There's no -- no penalty. And the
5 reason for that is that monetizing this asset may take work.
6 The management team, as I mentioned, is excellent. They're
7 doing a great job. And we're working with the management team
8 to assure their long-term commitment to the business and the
9 line of interests.

10 But there may be different ways to monetize this asset.
11 It may be that we sell parts of it. May be that we invest in
12 parts of it. It may be that we sell the whole company. It
13 may be that we would go to meet a banker with the management
14 team, that the banker says don't do it now, you should do x,
15 y, and z in order to enhance the value. While RCP is
16 liquidating, we are looking to procure value for their stake
17 in -- in Cornerstone. And we'll take all of those issues into
18 account. And even if Redeemer wants -- or Crusader wants to
19 sell but RCP doesn't and management doesn't, it's unlikely
20 that this asset will trade.

21 That said, as I mentioned, we are looking to see if we can
22 monetize it, and we are looking to try to cash out and
23 liquidate Redeemer -- RCP's interests as well.

24 Q As part of the negotiations that -- the board has agreed
25 to certain milestones and a schedule for the sale and

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1 marketing of the asset?

2 A We did. But as I mentioned earlier, I think this had a
3 lot more lead for Crusader than it exactly had for -- for me
4 and for Highland. We've talked to RCP about it and we talked
5 to management at Cornerstone about it.

6 Milestones with respect to a sale process, you know,
7 usually, the only thing you know for certain is that they
8 likely won't be met. And, really, they depend on the market.
9 If you tried to do the same milestones in 2020 as are -- our
10 aspiration to put up for 2021, there's no chance of that. And
11 so we'll have to see what the market looks like, and most
12 importantly, what the management team thinks is in the best
13 interest of the enterprise and what the bankers think is in
14 the best interest of the enterprise and then -- and question
15 -- equally importantly is what RCP wants to do.

16 Q All right. Now let's turn to the \$30.5 million value. I
17 think you heard counsel for UBS refer to our pleading as -- I
18 forget what the exact term was, but an indicator or predictor
19 of -- of fair market value. Did you hear her in that
20 commentary?

21 A I heard it, yes.

22 Q Okay. And do you have a view as to whether that was
23 necessarily the best characterization of the -- of the --

24 A Yeah, I -- I think the reports that we get monthly and
25 that all investment firms get monthly are where they're

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1 referred to as fair value valuations. And they help set the
2 NAV.

3 There's a reason they're not called fair market value.
4 There's no market test whatsoever. And so they are -- they
5 are -- they are desktop model-driven valuations. You look for
6 comparables. You look for a DCF. You do a bottoms-up in
7 terms of asset value, depending on the type of asset. And you
8 try to come up with a reasonable way to assess the value of
9 the asset.

10 They are not market tests. So, and I can give you dozens
11 of examples of why they're not, really simple examples of why
12 they're not, as to -- as to fair market.

13 Nevertheless, we use them and rely on them. And investors
14 use them and rely on them. And Houlihan Lokey is probably the
15 preeminent firm doing this in the U.S.

16 Q Do you believe, if 30.5 doesn't represent a fair market
17 value, do you believe that it is nevertheless a fair and
18 reasonable place to come for purposes of the negotiation with
19 the Redeemer Committee?

20 A Certainly. It's typically within our range of
21 reasonableness. We look at, you know, where we have NAVs. We
22 considered the issues with respect to the business. You know,
23 we -- we thought about the total of 48. We considered where
24 third parties, you know, might want to purchase it. But we
25 did not go get a market test.

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1 I'm quite certain that if UBS wanted to make a bid because
2 they thought it was so low, that if they took the advice of
3 their expert, they would have a willing seller, and -- and
4 Crusader would sell. We would certainly have a willing seller
5 in RCP. We'd -- happy to negotiate in the range that they
6 threw out. It's a giant bank. They should probably buy it if
7 it's that cheap.

8 Q Do you communicate with either officers or directors of
9 Cornerstone on a regular basis?

10 A I wouldn't say on a regular basis. I do -- I do
11 communicate with them. We have a team that serves as the
12 board of directors at Cornerstone, and they -- they deal on a
13 regular daily and weekly basis with the Cornerstone team, and
14 then they feed me the information and we analyze it and we
15 send them back.

16 So I have talked to the team at Cornerstone. I've
17 discussed the business with them and the approach we're taking
18 in the case, because it's obviously important to them. Their
19 -- their stock is -- it's a -- it's a big company. Their
20 stock is owned by a liquidating fund managed by Highland, a
21 liquidating fund suing Highland, and a small amount by
22 Highland. So I've tried to keep them up to speed. As I -- as
23 I said, we like the team. We think they're -- they're good
24 and we want to see them stay.

25 Q And does your work with the team and the communications

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1 that you've just described, do they help to inform you as to
2 the fairness and the reasonableness of the number that you
3 arrived at with the Redeemer Committee?

4 A It certainly -- it certainly factored in. Yeah. We
5 looked at the overall quality of the business, where it was in
6 the -- in cycle, the market that we're in now in terms of
7 where they have to perform, and considered the NAVs that we
8 have as well as the litigation risk with respect to -- with
9 respect to Crusader.

10 Q Do you have a view as to whether Cornerstone has done
11 anything in terms of its business model or business generally
12 that would cause valuation to fluctuate, or is it more
13 attributable to the fluctuations of the marketplace?

14 A Oh, well, I don't think that the value of Cornerstone has
15 moved or should move materially through the year. It probably
16 was depressed from a perception standpoint early, and I think
17 the team has done a good job. They've grown EBITDA from where
18 it was on a trailing basis to, you know, I think quite well.
19 And so the business is in a good, steady place.

20 The LTAC business is performing very well and I think is
21 -- is -- has proven itself to be a valuable asset in the -- in
22 the COVID. The senior living business is more challenged.
23 That business relies on a lot of capital, which we are
24 capital-constrained compared to some of the competitors. And
25 if we look at the public comps for those, those businesses, I

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1 think it's fair to say that some of the larger ones are
2 challenged. And I think the company has done a nice job.

3 But if -- I guess the question is, has -- do I think it's
4 materially different than it was early in the year? Depending
5 on perceptions, just like the market, you know, there's highs
6 and lows, but the company is doing a nice job. I think
7 they're planning on a steady pace.

8 Q Did -- you testified to it just a moment ago, but let's
9 talk about the Houlihan Lokey reports. Without going into any
10 substance, can you tell me how many assets or portfolio
11 companies does the Debtor commission Houlihan Lokey to produce
12 valuation reports similar to the one that's been described
13 there?

14 A Yeah. I don't have the exact number, because the Debtor
15 doesn't just do it for its portfolio companies. We have to
16 perform shared services for a myriad of funds, including
17 public funds, and Houlihan provides the -- the NAVs with
18 respect to their Level 2 and 3 assets as well.

19 Q And does the Debtor rely on those reports in the ordinary
20 course of its business?

21 A It does, yes.

22 Q Can you describe for the Court how the Debtor relies on
23 the Houlihan Lokey reports?

24 A In front of -- you know, Level -- Level 1 are assets that
25 have a market that you can look to directly to figure out the

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1 value of your asset. Think about Apple stock.

2 Level 2 assets are there is a market, but it may be more
3 -- more of a trade-by-appointment market. Think about not the
4 bigger high-yields, but high-yield loans, distressed or
5 stressed names where there's not a ton of market activity.

6 And Level 3 assets are ones where there's not real good
7 discernible market inputs and you try to value those on a
8 market -- on a model basis.

9 So, we use Houlihan reports in order to set the exit value
10 of various funds. We use it to report to the creditors in our
11 case. We use it for, as I said, like RCP, which is a fund
12 that gets -- strikes a NAV every month. And we use it with
13 respect to the CLO assets that we manage.

14 Q And to the best of your recollection, was the \$30.5
15 million number that has been agreed upon, was that within the
16 range of any of the Houlihan Lokey reports that you reviewed
17 as you were considering whether or not to enter into the
18 agreement?

19 A The number we agreed, the 30.5, was in the range, and it
20 was in the range when we -- when we struck this deal, which I
21 think was April-May. So I think it would fit in the range in
22 the May Houlihan valuation. I don't know about each month.
23 As I said, there are -- because it's a desktop and model-
24 driven valuation, there are anomalies that show up. And we
25 try to review those with Houlihan to try to make it as

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1 accurate -- use as accurate information as they can. But
2 that, you know, their numbers in their model over model, we
3 like to use it consistently. And you'll see that with respect
4 to any kind of assets that get this type of valuation before
5 the -- as opposed to a market valuation.

6 Q Okay. Before we leave the topic, let me just ask you: Is
7 there anything else that you recall taking into account when
8 -- when you and the board decided to accept the \$30.5 million
9 number?

10 A Well, we -- we didn't just -- we didn't just accept it.
11 As I say, we negotiated starting at 48, which we didn't think
12 there was a chance that we could sell it for that value. And
13 we negotiated with the Crusader and Redeemer interests to try
14 to come up with a settled amount.

15 So the same issues with respect to the deferred fees
16 factored in here. Again, it's a package deal, so we looked at
17 the litigation, the timing, the risk of not being able to get
18 a deal done and the damages that we would have, the potential
19 impact on RCP and Highland's interest in Cornerstone, the
20 impact on the management team at Cornerstone, the litigation
21 about the -- of who owns the equity interests. And so all of
22 those factors in trying to get to a deal weigh in as we
23 analyzed whether to do this transaction.

24 Q All right. I want to shift gears to one argument that has
25 been made by --

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1 THE COURT: Mr. Morris? I'm just letting you know,
2 you've gone 35 minutes. And I said I wouldn't, like, get the
3 shepherd hooks out after 30 minutes, but let's try to wrap it
4 up so we finish today. Okay?

5 MR. MORRIS: Yeah. No problem, Your Honor. I really
6 appreciate it. In fact, I'm going to wait and let UBS
7 question Mr. Seery on its theory concerning going back to
8 Chancery Court and I'll just skip that, because it's not --
9 it's not -- not my -- it's not our issue anyway.

10 BY MR. MORRIS:

11 Q Mr. Seery, let me just finish up, then, and see if we can
12 identify the various litigations that are being resolved if
13 this settlement approved. Would the settlement resolve the
14 Delaware Chancery Court litigation, to the best of your
15 knowledge?

16 A Yes, it would.

17 Q Are you aware that there's litigation pending between the
18 Redeemer Committee and the Debtor in the Cayman Islands?

19 A I -- I've heard of it. To be frank, we haven't looked at
20 it. It was part of the original discussions around all of the
21 open issues, but we expect that will be resolved as well.

22 Q And are you aware that there are two pending litigations
23 in Bermuda between the Redeemer Committee and the Debtor?

24 A Same -- same answer. We looked at those. We understood
25 what they -- you know, in terms of a board perspective.

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1 Counsel spent time on them. From a board perspective, it was
2 more of a sideshow. Those will be resolved. We thought the
3 main event was the arbitration award and the issues in
4 Delaware.

5 Q Okay. And did the -- did the elimination of the -- of all
6 of those litigations, the fees that might be incurred with
7 respect to them, the litigation risk, was that also a factor
8 in the board's determination to accept this settlement?

9 A Yeah, it always is. And again, not just the fees with
10 respect to this particular litigation but the overall case.
11 So it factors into analyzing whether this is a good, fair deal
12 for the entire estate and whether each component works to
13 support that overall thesis.

14 Q Okay. Last question. Can you explain to the Court why
15 the Debtor believes that this settlement is in the best
16 interest of the Debtor's estate?

17 A Hopefully, I've encapsulated that in the prior testimony,
18 but I think that, with respect to settling this claim, this
19 one was more straightforward than many of them,
20 notwithstanding the complexity of the arbitration award,
21 because there was an arbitration award. And it had been
22 litigated in front of the arbitration panel, which was an
23 esteemed panel, for a couple years, with tons of testimony,
24 tons of documents, and a partial finding and then a final
25 award that really hit on all the various issues with respect

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1 to disputes among the parties.

2 And if we don't settle it at all, I think we're going to
3 be back in for potentially a lengthy litigation, depending on
4 what happens in the Chancery Court. If we lose in the
5 Chancery Court, it's a significant impact to the estate. So
6 we viewed this as reasonable. We continually updated it and
7 -- our analysis, and, you know, feel confident that this is in
8 the best interest of the estate, the Highland interests, the
9 creditors, the investors.

10 MR. MORRIS: I have no further questions, Your Honor.

11 THE COURT: All right. Pass the witness.

12 Ms. Mascherin, when I was doing my time calculations
13 earlier, I didn't take you into account. Do you have any
14 examination that's not duplicative of Mr. Morris?

15 MS. MASCHERIN: I'll make this easy, Your Honor. No.

16 THE COURT: Thank you. Ms. Tomkowiak, it is your
17 turn to examine Mr. Seery. Go ahead.

18 MR. CLUBOK: Your Honor?

19 MS. TOMKOWIAK: Thank you, Your Honor. My colleague,
20 Andy Clubok, will be cross-examining. Appreciate it.

21 THE COURT: All right. Mr. Clubok, go ahead.

22 MR. CLUBOK: Yes, Your Honor. Ms. Tomkowiak is going
23 to let me do this part of the proceeding.

24 CROSS-EXAMINATION

25 BY MR. CLUBOK:

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1 Q Mr. Seery, you just testified that the \$30.5 million
2 assigned credit for Cornerstone was within the range of the
3 Houlihan Lokey reports that you get on a monthly basis.

4 Correct?

5 A Yes.

6 Q Okay. And, in fact, the -- have you reviewed the latest
7 Houlihan Lokey reports?

8 A I have.

9 Q Okay. And isn't it the case that -- or, what's the date
10 of that report, by the way?

11 A There's a draft in for September and there was one for
12 August.

13 Q So, that draft report for September has not been provided
14 to us, and certainly not been submitted to the Court.

15 Let me ask you, then, about the August valuation. It's
16 fair to say that \$30.5 -- well, what Houlihan does is that
17 they give you a low and a high, and that's the so-called range
18 in the value of Cornerstone, in their valuation reports.

19 Correct?

20 A They do.

21 Q And typically what Highland does is it assumes the
22 midpoint is the best number to use for that -- for what it
23 uses those reports for. Correct?

24 A Yes. Yeah.

25 Q Okay. And in the August 2020 Houlihan report, there is a

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1 low to high range, and in fact, 30.5 falls below the lowest
2 point in that range. Isn't that true?

3 A I don't recall the specifics of the report.

4 Q Well, you said that 30.5 falls within the range, and my
5 question to you, sir, is would you agree that, at least in the
6 August report, which is the latest that has been provided to
7 us, just, actually, about 24 hours ago, that 30.5 is below the
8 lowest point of the range and not within the range? Would you
9 agree with that?

10 A I don't know the answer off the top of my head. If I had
11 the report, I could look at it.

12 Q Yes, please. If you could look at the report and confirm
13 that.

14 A I don't have it.

15 Q Oh, I'm sorry. You said you don't have it? I see.

16 MR. CLUBOK: Your Honor, I'm mindful of your order
17 and I don't want to run afoul of it, but Mr. Seery testified
18 under oath that he believes that 30.5 is in the range of the
19 Houlihan report, which I will proffer to you that it is not.
20 It is below the range. I would like to present the report to
21 show at least Mr. Seery that contention. I'm not using it for
22 hearsay to prove the truth. Frankly, I think the Houlihan
23 reports (echo) themselves what a reasonable expert will say.
24 But they certainly are in a range that is above the 30.5.

25 THE COURT: All right.

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1 MR. CLUBOK: So I'd like to --

2 THE COURT: Let me start with your premise that he
3 testified inconsistently. My notes are that he said at the
4 time they struck the deal in April or May that this value was
5 within the range of the Houlihan modeling. Okay? So is
6 someone able to correct me one way or another? That -- I may
7 have written it down wrong, but that's what I thought I heard
8 and wrote down. Mr. --

9 MR. MORRIS: Your Honor?

10 THE COURT: Go ahead.

11 MR. MORRIS: Very briefly.

12 THE COURT: Go ahead.

13 MR. CLUBOK: If I may, I believe that is -- Your
14 Honor, I do believe that's what he said on the direct, but I
15 think under cross I asked him if it was in the range of the
16 most -- for the most recent report, and he said it was.
17 That's what I thought he just testified to in response to my
18 question. And if -- if that's the -- if -- Your Honor, if
19 there was a court reporter -- I don't have a real-time
20 transcript, so maybe I misheard it. But --

21 THE COURT: Well, Mr. Seery, why don't you just say
22 again what the answer to that question is, if we're confused
23 what you said. Go ahead.

24 THE WITNESS: Yeah. I think Your Honor had it
25 correctly. When we struck the deal, this was within the

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1 range, because I checked.

2 The ranges do move, and they have moved considerably,
3 which is one of the interesting things about these kinds of
4 valuations. Because it's model-input, it does move around
5 even though there's not a market to say that someone would pay
6 more or less for their stock. So, there would be times during
7 2020 that that number would be outside of the range. And even
8 in the -- in the May time frame, the April-May, I don't
9 remember exact numbers off the top of my head, it would be in
10 the -- in the lower end of the range.

11 THE COURT: Okay. Proceed.

12 MR. CLUBOK: Okay. I'll proceed with that, Your
13 Honor.

14 THE COURT: Okay.

15 BY MR. CLUBOK:

16 Q So we're clear, Mr. Seery, as we sit here today, the last
17 completed valuation, the most recent completed final
18 valuation, which was during August, for Houlihan Lokey has a
19 current range such that the lowest point of that range is
20 above the \$30.5 million number, correct?

21 A I don't recall off the top of my head. You've represented
22 it. I wouldn't quibble with it.

23 Q And, in fact, the midpoint of the most current Houlihan
24 Lokey valuation is significantly higher than \$30.5 million;
25 isn't that true?

1 MR. MORRIS: Objection to the form of the question.

2 THE COURT: Sustained.

3 MR. CLUBOK: Your Honor, I -- this is where I would
4 like the read the exact numbers. I have the exact numbers
5 right here. I'm looking at them.

6 THE COURT: We --

7 MR. CLUBOK: And I -- I'm going -- I can impeach him.

8 THE COURT: We've already addressed this issue that
9 we would need a Houlihan witness if you're going to give
10 details about a Houlihan report. And he testified he didn't
11 know. He wouldn't quibble with you. So I think that was sort
12 of a lack of foundation objection Mr. Morris waged, and I'm
13 sustaining it. Okay.

14 MR. CLUBOK: Okay.

15 BY MR. CLUBOK:

16 Q Did you, before submitting the settlement to the Court,
17 check the range of the most current available Houlihan Lokey
18 report before the settlement was submitted to the Court?

19 A I -- I think I may have. I don't -- I don't recall
20 specifically.

21 Q Okay. If we compare to the motion that you submitted, and
22 I think you explained that before the motion was filed you
23 read it carefully and discussed it with your lawyers and had
24 opportunity to ask questions with the other directors about
25 the entirety of the motion. Is that correct?

1 A I think -- I think we -- we fought about the word
2 carefully. I try to read everything carefully, but I assumed
3 you were trying to pin me down to some -- some super-fine
4 reading. I did read the motion. I did comment on the motion.
5 Yes.

6 Q Okay. Now, if we can put the motion up, please. This is
7 Debtor's motion. It's Docket No. 1099, I believe. Yes. You
8 were asked by Mr. Morris about the language that was
9 supposedly used in the motion that my colleague, Ms.
10 Tomkowiak, referenced in her opening. I just want to turn to
11 that exact language that was used in your motion. It's on
12 Page 10, Paragraph 31. And what it said in your motion is
13 that the damage award will be reduced by approximately \$30.5
14 million to account for the perceived fair market value of
15 those shares.

16 Well, the first question I have is, before this was
17 submitted -- well, strike that. Fair to say you have not
18 performed what you would consider to be a fair market
19 valuation of the shares, or caused that to be performed before
20 filing this motion, correct?

21 A Yes.

22 Q Okay. But you did have documents from Houlihan Lokey that
23 reports a -- what they called a fair valuation, and that gives
24 a range of what Houlihan Lokey calls a fair valuation, and you
25 have them -- have available to you every month for the

1 Cornerstone shares, correct?

2 A Yes.

3 Q And do you know whether or not the fair valuation of the
4 most current Houlihan Lokey report that you had in your
5 possession prior to causing this to be submitted to the Court
6 put that fair valuation at, say, at least 50 percent higher
7 than 30.5?

8 A I don't know and I -- off the top of my head, I don't have
9 in front of me. I said I wouldn't quibble with you, but I
10 don't want to accede to your math.

11 Q You wouldn't -- but you wouldn't quibble, based on your --
12 you know enough to know about Cornerstone today that you
13 wouldn't quibble with that rough math? Correct?

14 A Without -- without -- I believe that the valuation in the
15 more current Houlihan values is higher than it was in May. I
16 don't know if it's higher than it was at the beginning of the
17 year off the top of my head. And I don't know whether 50
18 percent is the right number or 40 percent or 52 percent. I
19 take you at your word that it's higher and that this number
20 doesn't fall within the range.

21 Q Okay. Now let's go back, because you said, well, it did
22 fall within the range at one point. I guess you said back in
23 May it fell within the range. Is that correct?

24 A I believe that's correct, yes.

25 Q Okay. So there was a Houlihan Lokey report that was

1 available to you in May of 2020 that had a range where \$30.5
2 million fell within, correct?

3 A There's a report every month. I'm not sure exactly which
4 report we looked at.

5 Q Well, the point on the -- I believe you did testify, this
6 is what the Judge heard, too, that there is a report that you
7 looked at around April or May that had a range from Houlihan
8 Lokey, and 30.5 fell within that range, and that's what you
9 used to in your mind justify the reasonableness of the \$30.5
10 million at that time. Is that correct?

11 MR. MORRIS: Objection to the form of the question.

12 THE COURT: Overruled.

13 MR. MORRIS: Mischaracterizes.

14 THE COURT: Overruled. He can answer.

15 THE WITNESS: The answer is to, with respect to that
16 piece of the discussion, which went along with Mr. Morris's
17 analysis, yes. And it did fall the within the range.

18 BY MR. CLUBOK:

19 Q Right. And, in fact, --

20 MR. CLUBOK: Your Honor, I would like to proffer that
21 the Houlihan Lokey report that was dated -- that was available
22 in April and May had a range that was, in fact, higher at the
23 low point than 30.5. And if we could use that document to
24 impeach Mr. Seery, or we could demonstrate, proffer evidence
25 that's not for hearsay but they're offering it for the truth

1 of the matter asserted. We think that (inaudible) and
2 certainly shows -- it impeaches Mr. Seery telling you
3 repeatedly that 30.5 at least fell within that range.

4 THE COURT: Well, I --

5 MR. MORRIS: Your Honor, may I be heard?

6 THE COURT: I overrule -- I heard him say that at
7 various points during 2020 the modeling of Houlihan would go
8 to different points. I'm not sure what you think you're
9 impeaching. What --

10 MR. MORRIS: Your Honor, may I --

11 THE COURT: Okay. Mr. Morris, go ahead.

12 MR. CLUBOK: Well, Your Honor, I mean, --

13 THE COURT: Mr. Morris, go ahead.

14 MR. MORRIS: Your Honor, I would also point out, Your
15 Honor, consistent with exactly what you just said, that UBS's
16 witness, expert witness, which is one of the reasons why I
17 think he ought to be excluded, expressly says in his report
18 that the value came within the range of the Houlihan Lokey
19 valuation. I think it was from March. But he makes the
20 admission expressly. Expressly. It's --

21 MR. CLUBOK: That is not true. There is a Houlihan
22 Lokey report that I'm looking at right now that was for March
23 of 20 -- I know Mr. Seery just said off the top of his head
24 that the values fluctuate. There is -- I will represent there
25 is no Houlihan Lokey report since March, which was the lowest

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1 point of COVID, through today, that ever had a range that was
2 provided to Highland where 30.5 falls within, as opposed to
3 below the range. So we have the reports. We have every
4 report they produced to us. We asked for all of them. We've
5 got them. We could offer them to the Court and you would see
6 that Mr. Seery's statement off the top of his head that it is
7 in the middle or that it varies or have been telling you that
8 it fluctuates and the ranges go up and down is just not true,
9 --

10 THE COURT: All right.

11 MR. CLUBOK: -- based on the actual Houlihan reports
12 that we have that they just provided to us a few days ago.

13 THE COURT: Okay. Let me take this in parts. I've
14 already ruled that the Houlihan reports will not get in, the
15 main reason out of two or three reasons being that it's
16 hearsay without a Houlihan person here. Okay? And someone
17 could have subpoenaed a Houlihan person and maybe I would have
18 been enforced that subpoena. All right?

19 But second, I just want to be clear what I'm hearing.
20 What I heard -- again, I've taken notes occasionally. The
21 testimony that I guess you're wanting to use the Houlihan
22 reports to impeach is that Mr. -- I heard Mr. Seery say that
23 when the deal was struck, the proposed compromise with the
24 Redeemer Committee was struck in April or May, that he thought
25 this \$30.5 million value was in the range of the modeling --

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1 the models or the valuations that Houlihan had done. And I
2 have inferred from other comments and testimony that it was a
3 March -- it was March Houlihan modeling that he was looking at
4 at that point.

5 As for anything else, I'm not sure he used the word -- the
6 words ups and downs. I think he used the words that if you
7 would check at various points in time during 2020, Houlihan's
8 modeling showed different numbers for valuation, but he relied
9 on the information in the April-May time frame when the deal
10 was struck.

11 All right. So, based on what I've heard, I don't think
12 there is some independent grounds to try to get the Houlihan
13 reports in now as impeachment.

14 All right. So that's the ruling. Continue.

15 MR. CLUBOK: Okay.

16 BY MR. CLUBOK:

17 Q Today's fair market value of Cornerstone, in your best
18 judgment, with all the information you have available to you,
19 for 42 percent, is significantly above \$30.5 million, correct?

20 A Fair market value? I don't have that information. I
21 don't -- I don't think that today, if you wanted to transact
22 those shares, in my opinion, other than an insider, that you
23 could sell those shares today for \$30.5 million.

24 Q If the shares were being marketed and sold together, as
25 the settlement requires the Debtor to do in good faith over

1 the next year, the fair value estimates currently today
2 available to the Debtor show that it's worth significantly
3 more than \$30.5 million; isn't that true?

4 A The Houlihan share value marks show a higher value, yes.
5 They're not fair market. Let's make sure we are precise.

6 Q Understood. Houlihan uses the phrase "fair value" in its
7 reports. And the current marks that you pay Houlihan to
8 provide to Highland shows today, October 20th, 2020, that the
9 value of 42 percent of Cornerstone is significantly higher
10 than \$30.5 million, correct? The fair value? Whether or not
11 --

12 A I believe it's -- I believe it's higher. And the last one
13 we have is 8/31. I just don't remember the amount that it is.

14 Q Okay. You did not offer that information into evidence in
15 support of your motion? You chose not to do that, correct?

16 A I -- I chose -- I think -- I don't know what counsel put
17 in other than -- than me.

18 Q Well, you are aware, actually, that the only evidence that
19 counsel put in the record to support this motion is the motion
20 itself and your testimony?

21 MR. MORRIS: Objection, Your Honor. He -- he's here
22 testifying. And --

23 (Audio interruption.)

24 MR. MORRIS: We'll -- we'll be putting our exhibits
25 in as well. But to continually refer to the motion itself as

1 the only evidence is just not right.

2 THE COURT: Okay. Overruled.

3 MR. CLUBOK: I'll move on, Your Honor.

4 THE COURT: Okay.

5 MR. MORRIS: Thank you.

6 BY MR. CLUBOK:

7 Q You said in your direct that Houlihan -- you called them
8 the premier -- you used some superlative. Said they're the
9 premier valuation experts or something for -- for modeling or
10 -- some superlative about Houlihan. Do you recall that?

11 A Yes, I do. In terms of providing third-party valuations
12 to investment funds and others, I think they are the premier
13 firm.

14 Q Okay. Who -- you don't know who at Houlihan actually
15 works on the valuations for Cornerstone, correct?

16 A I don't, no.

17 Q You have no idea what the credentials are of anybody at
18 Houlihan who have done any work to help prepare those
19 valuations that you've got other than from them, correct?

20 A That's not true.

21 Q You're -- do you know the names of any of these -- their
22 people?

23 A No.

24 Q Okay. You've never spoken to any of them, correct?

25 A In regard to this assignment? No.

1 Q Yeah. You've never asked for anyone at Houlihan who works
2 on valuing Cornerstone to be available to you as part of due
3 diligence in preparing for this settlement review, though.

4 Correct?

5 A I -- I have not, no.

6 Q You yourself have never done a valuation of a health
7 company, healthcare company on your own, correct?

8 A On my own? No.

9 Q You have -- you've never heard -- I asked you on Saturday,
10 but before Saturday, at least, you'd never heard of something
11 called the Gordon Growth Model for estimating terminal value
12 with respect to healthcare funds. That is correct?

13 A I had not heard of it before Saturday, no.

14 Q You have no idea whether or not the choice of using a low
15 exit multiple as compared to using a Gordon Growth method
16 would affect a proper DCF analysis for analyzing a healthcare
17 company like Cornerstone, correct?

18 A No. That's not true.

19 Q Well, you don't know that the Gordon Growth method -- you
20 don't know how the Gordon Growth method factors into any
21 analysis of DCF, correct?

22 A That's not true.

23 MR. CLUBOK: Could we put up Mr. Seery's deposition?

24 BY MR. CLUBOK:

25 Q Well, you certainly don't know how the Gordon Growth

1 method factors into Houlihan's analysis of Cornerstone,
2 correct?

3 A I don't think they use it. They show on their valuations
4 a terminal multiple. And they do a DCF and do a terminal
5 multiple, which is the way virtually everybody does it in
6 these kinds of assets, because Gordon Growth focuses on
7 continued growth businesses that continually grow their
8 dividends.

9 Q Well, now, that -- that statement you gave about Gordon
10 Growth method, that's something you just learned between
11 Saturday and today, correct?

12 A That is correct.

13 Q Okay. Who told you that?

14 A I both looked it up and talked to professionals.

15 Q Who, exactly?

16 A I'd rather not say the names of my friends who provide me
17 help on these things.

18 Q Well, with all due respect, Mr. Seery, if it relates to
19 the basis for a statement you make, I'd just like the source
20 of that statement.

21 MS. LAMBERT: Your Honor, I object on the ground of
22 relevance. I've -- I've held my tongue for overall, but I
23 don't think this is really germane to the issues.

24 THE COURT: Sustained.

25 MR. MORRIS: I join in the objection.

1 THE COURT: I sustain.

2 BY MR. CLUBOK:

3 Q You expect, Mr. Seery -- well, per the settlement,
4 proposed settlement, Crusader would have (garbled) that a
5 claim valued -- a stipulated claim of about \$137 million.
6 Correct?

7 A That's correct.

8 Q And also Redeemer would be allowed to keep their 42
9 percent interest in Cornerstone that the arbitration award had
10 otherwise said needed to be tendered to Highland, correct?

11 A That's correct.

12 Q You, based on your current analysis, expect that the --
13 Redeemer would be fully paid in the full amount of that
14 allowed claim of roughly \$137 million, according to current
15 thinking of the Debtors and creditors in the estate. Is that
16 correct?

17 A I can only speak to my thinking, and that we put forth
18 relatively conservative numbers in our projections, that
19 assuming that the denominator ends up where I believe it
20 should end up, which is the number of claims in the case,
21 which assumes UBS has a zero claim, and that Mr. Daugherty's
22 claim is capped at the amount that we've -- we've agreed to in
23 our papers, which I believe is around \$3.7 million, and that
24 HarbourVest has a zero claim, and then there are some
25 assumptions around operating costs, I believe that we will be

1 able to pay these claims in full.

2 Q Well, but you've made it clear to Redeemer that your
3 current expectation is to be able to pay that \$137 million
4 allowed claim in full, if everything goes the way you just
5 described you think it should go or you believe it will go?

6 A I've never had that discussion with Redeemer.

7 Q You have advised Redeemer in words or substance that you
8 expect there to be full payment of a \$137 million allowed
9 claim under the settlement? Is that true?

10 A I don't believe I have.

11 Q You don't believe you've ever (inaudible) that, in words
12 or substance, with either Redeemer or any of its counsel?

13 A I don't believe I have, no.

14 Q Okay.

15 MR. CLUBOK: Just one moment, Your Honor, while I
16 (inaudible).

17 (Pause.)

18 BY MR. CLUBOK:

19 Q Mr. Morris asked you, asked you whether you roll over.
20 You said no. Then he asked you whether you thought that
21 Redeemer would roll over on one of their claims completely,
22 and you said no.

23 With respect to one point in the settlement, the EERS
24 (phonetic) interest, those (inaudible) that Highland currently
25 holds, if there was a settlement it would it extinguish

1 roughly five to six million dollars of your current
2 valuations. Is that right?

3 A I think that's about right.

4 Q And those -- that five to six million in value is one of
5 the issues that would be subject to a ruling on the vacatur
6 motion that we talked about, the idea that -- that additional
7 substantive elements were added to the arbitration award after
8 the first part of the award. Is that correct?

9 A I believe that's one of the issues that -- that I am
10 briefed.

11 Q Yeah. And on that issue, under this settlement, you're
12 giving a hundred percent credit to Crusader's or Redeemer's
13 claims with respect to that particular element. Correct?

14 A That's correct.

15 Q And, in fact, you're giving a hundred percent credit to
16 all of Redeemer's claims with respect to the amounts that were
17 disputed under the argument that claims added after the first
18 final arbitration award are impermissible, correct?

19 A I'm -- I just -- I'm not -- I'm not sure what you're
20 asking me there. I'm sorry.

21 Q Well, for example, that Barclay's claim is another claim
22 that's worth about \$30 million in total. And that's -- that's
23 about \$21 million awarded, about \$9 million pre-judgment
24 interest. That \$30 million, like the EERS, is subject to this
25 argument that it shouldn't be properly -- it was impermissibly

1 awarded by the arbitration panel because it came after the
2 first final award. Correct?

3 A I think that there's an argument to that effect, correct.

4 Q Yeah. And under the proposed settlement, you're giving it
5 a hundred percent -- you're giving a zero percent settlement
6 discount, or a very -- a zero percent settlement discount for
7 Highland, correct?

8 A That's correct.

9 Q Thank you.

10 MR. CLUBOK: I have nothing further.

11 THE COURT: All right. Redirect?

12 MR. MORRIS: Just a few questions, Your Honor.

13 THE COURT: Okay.

14 REDIRECT EXAMINATION

15 BY MR. MORRIS:

16 Q Mr. Seery, if the Debtor walks away from this agreement,
17 has the Debtor done any analysis and taken advice on the
18 likelihood of succeeding in Chancery Court?

19 A The Debtor has, yes.

20 Q And can you share with the Court the Debtor's view as to
21 the likelihood of success in the Chancery Court?

22 MR. CLUBOK: Objection. Objection, Your Honor.

23 Just, number one, I don't think that's -- to the extent that
24 that's going to rely on advice of counsel, I just (inaudible).

25 We're going to get a -- the percentage that's based on --

Seery - Redirect

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1 waiving the privilege. I raised that ahead of time.

2 MR. MORRIS: I appreciate that, counsel. We're
3 certainly not intending to waive the privilege. I'm just
4 asking for a statement as to the Debtor's position as to why
5 it does not believe it is likely to succeed in Chancery Court.
6 I'm not asking him to share any confidential communications,
7 but thank you for the comment.

8 THE COURT: Okay. Please proceed.

9 MR. CLUBOK: Um, --

10 THE COURT: Mr. Seery, you can answer.

11 THE WITNESS: Thank you, Your Honor. When we looked
12 at the Chancery Court, there is a number of the issues the
13 Debtor raised previously in the arbitration. There was a
14 partial award that clearly says it's a partial award. And
15 then the Debtor raised a number of procedural issues that
16 there were additions to the partial award between the partial
17 and the final. And the final goes through those in detail
18 with this panel that, as we said, is -- was esteemed and had
19 lot of work on it.

20 For example, in one section, they gave the whole rationale
21 in the partial and they left out the damage number. So they
22 -- they had ruled basically fully against the Debtor, but
23 without giving a number. And so Highland attempted to argue
24 that to the arbitration panel in between the partial and the
25 final. The arbitration panel said that's a scrivener's error,

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Seery - Redirect

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1 we're allowed to do this, and they went through the analysis.

2 Our counsel looked at these issues again. And we thought
3 that the likelihood of success at the Chancery Court to re-
4 raise these issues was very low. So we did factor it in and
5 we did analyze it. It wasn't something that we missed. We
6 just didn't think it was a fruitful opportunity to litigate in
7 the Chancery Court.

8 MR. MORRIS: I have no further questions, Your Honor.

9 THE COURT: All right. Any recross?

10 MR. CLUBOK: No, Your Honor.

11 THE COURT: All right.

12 MR. MORRIS: Your Honor, may I just move my exhibits
13 into evidence, and then I'll rest?

14 THE COURT: Okay. You may.

15 MR. MORRIS: Okay. The Debtor would like, then, to
16 move into evidence exhibits that are marked 1 through 4. And
17 to be specific, and we can take them one at a time, Exhibit 1
18 is Proof of Claim #72. That was filed, I believe, on behalf
19 of the Crusader Funds.

20 MR. CLUBOK: Your Honor, objection on hearsay
21 grounds, Your Honor. It has been offered into evidence.

22 THE COURT: All right.

23 MR. CLUBOK: It's the proof of claim.

24 MR. MORRIS: Object to the compromise. I'm not -- it
25 is the proof -- I'm not offering it for the truth of the

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1 matter asserted at all, actually.

2 THE COURT: Okay.

3 MR. CLUBOK: That's fine. If it's not being offered
4 for the truth of the matter asserted, but just for those
5 purposes, then we have no objection.

6 THE COURT: Okay. So that --

7 MR. MORRIS: Correct.

8 THE COURT: -- is admitted. And to be clear where
9 this appears in the Court record, Docket Entry #1178, Debtor's
10 witness and exhibit list, I think it was attached to that as
11 Exhibit 1. That's admitted.

12 (Debtor's Exhibit 1 is received into evidence.)

13 MR. MORRIS: Exhibit 2 is Proof of Claim #81, is the
14 proof of claim filed by the Redeemer Committee. The Debtor
15 respectfully moves that exhibit into evidence as well.

16 THE COURT: Okay. Same sort of concept, for notice
17 purposes only, it's admitted.

18 (Debtor's Exhibit 2 is received into evidence.)

19 MR. MORRIS: Okay. And the Debtor also moves into
20 evidence the declaration of John Morris submitted in support
21 of the 9019 motion and the exhibits annexed thereto. To be
22 clear, Exhibit 1 to my declaration is the stipulation of
23 settlement. Exhibits 2, 3, and 4 are the partial final award,
24 the modification award, and the final award. Those three
25 documents have been filed under seal pursuant to a sealing

1 motion which is on our exhibit list as Exhibit #4. And I
2 think there might also be duplicate copies of the proofs of
3 claim attached to my declaration as well. But we'd move all
4 of those documents into evidence, subject to the sealing
5 order.

6 THE COURT: All right. Any objection? All right.

7 MR. CLUBOK: No objection, for the non-hearsay
8 purposes of those.

9 THE COURT: All right. So, Exhibit 3, with all of
10 those subparts, some of which are under seal, are admitted.

11 (Debtor's Exhibit 3, including subparts, is received into
12 evidence.)

13 MR. MORRIS: I do want to clarify, Your Honor, that
14 with respect to the three parts of the award, we're offering
15 them for the truth of the matter asserted insofar as they are
16 the findings of fact and the conclusions of law of the
17 arbitration panel.

18 MR. CLUBOK: No objection.

19 THE COURT: Okay.

20 MR. MORRIS: Thank you, Your Honor.

21 THE COURT: Thank you.

22 MR. CLUBOK: Your Honor, and I do have a -- also
23 similar housekeeping. And I raise this with a trembling voice
24 because I really am -- very respectfully. I'd just like to
25 make a proffer that there are four Houlihan Lokey exhibits

1 that have been recently produced to us in the last few days.

2 THE COURT: Okay.

3 MR. CLUBOK: If I can just make my proffer, then I'll
4 stop.

5 THE COURT: Let me -- let me stop -- let me stop you.
6 I'm not sure Mr. Morris was finished yet with the exhibits he
7 was going to offer. Let me clarify.

8 Are you finished, Mr. Morris?

9 MR. CLUBOK: Oh, I apologize.

10 MR. MORRIS: Just -- just to be clear, I think I was,
11 but Exhibit #4, which is the sealing order, we also offer into
12 evidence, just to support the sealing of Exhibits 2, 3, and 4
13 to my declaration.

14 THE COURT: All right. Well, I can certainly take
15 judicial notice of that and we'll go ahead for clarity and
16 admit that as a witness -- as an exhibit.

17 (Debtor's Exhibit 4 is received into evidence.)

18 THE COURT: All right. So, with that, you rest, Mr.
19 Morris?

20 MR. MORRIS: Yes, Your Honor.

21 THE COURT: All right. Now, Mr. Clubok, you were
22 saying?

23 MR. CLUBOK: I appreciate it, Your Honor. There are
24 -- we had a document request. We were provided four Bates-
25 labeled productions within the last few days of Houlihan Lokey

1 reports that are dated March 2020, June 2020, July 2020, and
2 August 2020, the only ones that they've been -- have been
3 provided to us during that time period.

4 I understand Your Honor ruled that they are hearsay and
5 can't come in for the truth of the matter, but we believe that
6 they should properly be admitted for the purpose of notice,
7 the fact that that information is available to Mr. Seery, and
8 also, frankly, for impeachment if we are allowed to present
9 that for the Court's view, at least under seal. I believe
10 we've already submitted two of them under seal on Friday
11 night. The other two, we just got like last night or the wee
12 hours of the morning yesterday. And we would like to proffer
13 that there are four Houlihan Lokey exhibits that were made
14 available to us that should be admitted for non-hearsay
15 purposes.

16 THE COURT: All right. Well, I once again will make
17 clear for the record that I am not admitting those. I think
18 they are hearsay. I think you would need the creator or
19 supervisor of the reports here to properly offer them into
20 evidence.

21 I also think that, as I said earlier, I'm not required to
22 conduct a mini-trial and accept every piece of possible
23 evidence of valuation. I am supposed to, you know, consider
24 facts and circumstances that bear on the wisdom of the
25 compromise. And so I've heard valuation testimony from Mr.

1 Seery and what he considered the range of reasonableness.

2 Anyway, I primarily rely on the hearsay problem here in
3 not admitting these four exhibits. So that is the ruling.

4 If you want to put them into the record under seal for
5 purposes of maybe appeal purposes -- he or she made an error,
6 she didn't accept this stuff -- then obviously you can submit
7 them under seal for the court reporter to keep them in the
8 record. So I assume you'll coordinate after the hearing
9 getting those into the court reporter's hands under seal.

10 Okay?

11 MR. CLUBOK: Thank you, Your Honor. Thank you very
12 much. Appreciate it.

13 THE COURT: Okay. So, I guess at this point we've
14 had the Debtor rest and we're going to go to UBS's evidence.
15 I want to make the most efficient use of time possible. And
16 let me clarify. I had told you all I would stop at 12:30
17 Central time. It's 12:19. My quandary is that I have a 1:30
18 status conference in an adversary proceeding in another case,
19 and then I have a 2:30 hearing that should not last very long
20 in yet another case. So I have told you all you can come back
21 at 3:00 o'clock.

22 Is there anything worthwhile you think we can accomplish
23 in ten minutes, or shall we just break? What do you all
24 think?

25 MR. CLUBOK: What I do think, Your Honor, is if we

1 have the ten minutes, maybe we can work to make sure that we
2 have addressed any other confidentiality issues and make sure
3 that Mr. Morris and his law firm are comfortable with what
4 we're going to do with our next witness so we don't have an
5 accidental foot fault. I think that can be useful. We'll
6 spend the time doing that to make sure that --

7 THE COURT: Okay. You mean talk offline?

8 MR. CLUBOK: Yeah. The attorneys will talk amongst
9 themselves and just --

10 THE COURT: Okay.

11 MR. CLUBOK: We don't want to accidentally put
12 something up that is going to be objected to. We'd rather
13 show it -- now show it to Mr. Morris in advance and hopefully
14 work it out so that we don't have to accidentally put
15 something in the record they're, you know, going to object to.

16 THE COURT: All right. Well, I am good with that.
17 And so let's talk about a couple of additional things. My
18 courtroom deputy I think has put up the instructions for how
19 to reconnect at 3:00 o'clock, because obviously we're going to
20 have to break this off and I have other video hearings. So,
21 you know, contact my courtroom deputy if you don't see those
22 instructions. The instructions should be on the website, as
23 far as numbers and passwords and whatnot to use for the new
24 setting or the new resumption of this hearing at 3:00 o'clock.

25 The next thing I will say is I think I told you all we

1 could go until 5:00 or 5:30-ish. I do want to again be
2 efficient and break when it makes sense to break. I have
3 availability to come back tomorrow at 9:30 in the morning. So
4 maybe you all could be thinking ahead with regard to the Acis
5 motion. You know, do you want to start late today and do your
6 darnedest to finish, or is that a pipe dream and we'll have to
7 come back tomorrow?

8 MR. MORRIS: Your Honor, just speaking for the
9 Debtor, I don't think that we're going to have -- I don't
10 anticipate having any of the same confidentiality issues.

11 THE COURT: Uh-huh.

12 MR. MORRIS: I think that this was handled as
13 efficiently as it could under the circumstances. I have a
14 better sense of how to get this done. I'm hopeful that we
15 won't need but a few more minutes to finish the Redeemer, and
16 I'd like to try to get to as much of the Acis part as we can.

17 THE COURT: Okay. Well, we will shoot to try to get
18 it done today if we can. And if that means we need to go a
19 little later than I've projected, we will, if we can avoid
20 coming back tomorrow.

21 All right. So I shall see you all at 3:00 o'clock Central
22 time. Okay.

23 MS. PATEL: Your Honor, if I -- this is Rakhee Patel.
24 If I could, just quickly on the Acis issue, I am unavailable
25 tomorrow morning, so I just wanted to put everybody -- to put

1 that out there. I haven't discussed that with either Mr.
2 Morris or Mr. Demo. But unfortunately, I've got an unmovable
3 conflict tomorrow morning. So, if it did run over, I wouldn't
4 be available. So if we could finish it today, that would be
5 greatly appreciated.

6 THE COURT: All right. Well, I have in my notes that
7 we'll have Mr. Seery again. And Mr. Daugherty was listed as a
8 witness, possible witness, by his lawyer. And then Ms.
9 Rappaport as a possible expert witness. I'm not a hundred
10 percent clear what the scope of that testimony would be. I
11 don't know if there are objections. But if we do in fact have
12 three witnesses, it may be a challenge finishing tonight.
13 But, you know, I will go past 5:00 or 5:30, but not insanely
14 past those hours. Okay? I don't want to be up here at 9:00
15 o'clock when we have staff who isn't getting paid overtime.
16 So, all right.

17 MR. MORRIS: We're grateful, Your Honor.

18 THE COURT: Okay. Thank you. We stand adjourned.

19 MS. PATEL: Thank you, Your Honor.

20 THE CLERK: All rise.

21 (A recess ensued from 12:24 p.m. until 3:01 p.m.)

22 THE CLERK: All rise.

23 THE COURT: All right. Please be seated. Welcome
24 back. We are going to resume our Highland hearing. It looks
25 like we've got a lot of folks on the phone once again.

1 When we broke at 12:20, the Debtor had rested on the
2 motion to approve the compromise with the Redeemer Committee
3 and the Crusader Fund, and we were about to hear from UBS and
4 their evidence objecting to the settlement.

5 Any housekeeping matters before we turn it over to Mr.
6 Clubok?

7 All right. Well, Mr. Clubok, are you there? Are you
8 ready to call your witness?

9 MR. CLUBOK: Your Honor, it's actually Ms. Tomkowiak.

10 THE COURT: Oh.

11 MS. TOMKOWIAK: I going to handle this portion of the
12 hearing.

13 THE COURT: Okay.

14 MS. TOMKOWIAK: And we are ready to call Mr. (audio
15 gap).

16 THE COURT: Mr. Moentmann? Is that how you say the
17 name? Is it Mr. Moentmann?

18 MS. TOMKOWIAK: Yes, Your Honor.

19 THE COURT: All right.

20 MR. MOENTMANN: That's -- yes, that's correct.

21 THE COURT: All right. Mr. Moentmann, I need to
22 swear you in. So there you are. I can see you now. Please
23 raise your right hand.

24 W. KEVIN MOENTMANN, UBS SECURITIES, LLC'S WITNESS, SWORN

25 THE COURT: All right. You may proceed.

Moentmann - Direct

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1 MS. TOMKOWIAK: Great.

2 DIRECT EXAMINATION

3 BY MS. TOMKOWIAK:

4 Q And Mr. Moentmann, I understand that you've prepared some
5 demonstratives to assist with your testimony; is that correct?

6 A That is correct.

7 Q Okay.

8 MR. MORRIS: Excuse me. May I -- as I previewed
9 earlier, I have a motion. I'd like to *voir dire*. It'll be
10 about 12 questions, and then I'd like to make a motion to
11 exclude the witness's testimony. May I?

12 THE COURT: All right. Well, Ms. Tomkowiak, you knew
13 this was coming. Anything you want to say at this point?

14 MS. TOMKOWIAK: I don't think this is the motion. I
15 mean, I haven't -- I haven't -- I heard that earlier, but no
16 preview as to the grounds for a motion were provided.

17 THE COURT: All right. Mr. Morris, what about that?

18 MR. MORRIS: It's *voir dire*, Your Honor. I would
19 just like to ask questions to see if this witness can provide
20 testimony consistent with Federal Rule of Evidence 702. I
21 just took his deposition yesterday.

22 THE COURT: Okay. You may proceed with *voir dire*.

23 MR. MORRIS: Okay. Thank you.

24 VOIR DIRE EXAMINATION

25 BY MR. MORRIS:

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1 Q Sir, you had never heard of Cornerstone before this case;
2 is that right?

3 A That's correct.

4 Q And you were retained just a couple of weeks ago; is that
5 right?

6 A Yes.

7 Q And you spent approximately 20 or 30 hours preparing your
8 analysis, right?

9 A Yes. Up until my deposition on Saturday, yes.

10 Q Yes. And without getting into the details, one of the
11 biggest drivers in the difference between the values that you
12 come up with and the values that Houlihan Lokey comes up with
13 is a difference in one aspect of the methodology, whereby you
14 use what's called the Growth Model and Houlihan Lokey uses
15 exit -- exit multiples. Do I have that right?

16 A That is one area, yes.

17 Q And it's one of the biggest areas; isn't that right?

18 A It's -- yes and no.

19 Q Okay. But you'll agree that the use of exit multiples in
20 the manner that Houlihan Lokey has done is an accepted
21 practice in the valuation industry; isn't that right?

22 A If the multiples selected are reasonable, yes.

23 Q Okay. The methodology is certainly accepted; is that
24 right?

25 A It's -- it's not the prevalent one that is accepted.

1 Q Okay. And your firm is Grant Thornton; is that right?

2 A Yes. That's right.

3 Q And Grant Thornton prepares valuation reports similar in
4 nature to the ones that Houlihan Lokey prepares; is that
5 right?

6 A Yes, we do.

7 Q And in fact, you personally consider Houlihan Lokey to be
8 a competitor; is that fair?

9 A Yes.

10 Q And you've reviewed Houlihan Lokey reports before being
11 engaged in this matter, haven't you?

12 A I have.

13 Q And based on your professional experience, you believe
14 Houlihan Lokey has a good reputation in the field of
15 valuation; isn't that correct?

16 A I believe it is a reputable firm, yes.

17 Q In fact, you're aware that from time to time Grant
18 Thornton's own audit clients have used Houlihan Lokey's
19 valuation services; isn't that right?

20 A I couldn't tell you specifically which clients, but I'm
21 sure they have, given the large number of audit clients that
22 we have, yes.

23 Q And those audit clients use Houlihan Lokey even though
24 Houlihan Lokey uses a methodology different from the one
25 employed by Grant Thornton; isn't that right?

1 A I couldn't say that affirmatively. I don't know if they
2 use a different methodology when they're performing the
3 valuation for our audit client.

4 Q Okay. You're aware, though, that your audit clients not
5 only use Houlihan Lokey but they actually rely on Houlihan
6 Lokey's valuation services; is that fair?

7 A Again, I'm assuming they do, just given the large number
8 of audit clients. We have, you know, thousand plus audit
9 clients, I would imagine, so I would assume that Houlihan is
10 doing some of them.

11 Q Okay. And --

12 A (overspoken)

13 Q I'm sorry to interrupt.

14 A Yeah. I was just -- I was actually just getting to answer
15 your question. So I'm sure they do and rely on Houlihan for
16 valuation.

17 Q Okay. Thank you, sir. Putting aside your own personal
18 views as reflected in your declaration, you have no reason to
19 believe that it was unreasonable for the Debtor to utilize
20 Houlihan Lokey's reports in this instance; isn't that correct?

21 A Well, I think I've pointed out several areas where I
22 think, given the assumptions made, that it -- it is
23 unreasonable.

24 Q Okay. I'm going to ask the question one more time and ask
25 you to listen very carefully. Putting aside your own personal

1 views as reflected in your declaration, you have no reason to
2 believe that it was unreasonable for the Debtor to utilize
3 Houlihan Lokey's reports in this instance; isn't that correct?

4 A Putting aside my -- my different viewpoint from a
5 valuation -- as a valuation professional, yes.

6 Q Okay.

7 MR. MORRIS: Your Honor, Rule 702 requires that
8 qualified experts may only offer opinion testimony if four
9 specific conditions are satisfied.

10 One of those conditions is that the opinion testimony will
11 help a trier of fact understand the evidence or determine a
12 fact at issue. The only issue in this case is whether or not
13 this settlement is fair or reasonable. This is not a
14 valuation fight. This is not a fight over whether or not the
15 Debtor is maximizing value. This is a dispute over whether or
16 not the Debtor is properly exercising its business judgment,
17 whether it's done a fair and reasonable investigation and
18 diligence of the matters at issue. And I think, given the
19 witness's testimony just now that his own clients use Houlihan
20 Lokey and that he has no reason to believe that it would be
21 unreasonable for the Debtor to use Houlihan Lokey in this
22 instance, I don't see (garbled) respect to the witness.
23 Because I'm not challenging his qualifications. This is not a
24 *Daubert* motion. I just don't see how this is at all useful to
25 you as the trier of fact to understand the evidence and

1 determine a fact at issue.

2 Thank you, Your Honor.

3 THE COURT: Okay. Your response, Ms. Tomkowiak?

4 MS. TOMKOWIAK: Well, Your Honor, I feel like it's
5 important to acknowledge that -- he's saying this is not a
6 *Daubert* motion. This is not a 702 issue. This witness is
7 extremely qualified to provide his opinion on the valuation of
8 Cornerstone, which is an issue in the settlement. It does go
9 exactly to the question that Your Honor is being asked to
10 evaluate, which is, you know, is this settlement fair,
11 equitable, and in the best interest of the estates?

12 I don't understand this hypothetical about, putting aside
13 your opinion, do you have a view? I mean, his opinion is his
14 view. And I believe that it is absolutely relevant. He
15 should be allowed to testify to it. His testimony is based on
16 facts and data. It's the product of a reliable methodology
17 that everybody agrees, you know, can be applied to value an
18 asset. Is to apply that methodology to the facts of this
19 case.

20 So, you know, I understand that the Debtor chose not to
21 put on any evidence regarding the value of this incredibly
22 meaningful asset that they decided to give up in this
23 settlement, but that doesn't mean that UBS shouldn't be
24 allowed to do so in support of its valid objection to the
25 settlement.

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1 THE COURT: Okay.

2 MS. TOMKOWIAK: So, I object and I believe we should
3 be allowed to proceed with our examination of Mr. Moentmann.

4 THE COURT: Okay. I overrule the objection. I'm
5 going to allow some testimony. Go ahead.

6 MS. TOMKOWIAK: Thank you. Okay.

7 DIRECT EXAMINATION, RESUMED

8 BY MS. TOMKOWIAK:

9 Q And Mr. Moentmann, I think you prepared some slides to
10 assist with your testimony today; is that correct?

11 A That's correct.

12 Q Can you pull those up? All right. So, very briefly,
13 let's just go to the first slide. Please tell the Court,
14 where do you currently work?

15 A Yes. I work at Grant Thornton.

16 Q How long have you worked at Grant Thornton?

17 A For just over four years.

18 Q Briefly, what are your responsibilities at Grant Thornton?

19 A I'm the principal in the firm responsible for providing
20 valuation services. I provide those services extensively in
21 the healthcare industry to a variety of healthcare entities.

22 Q Where were you employed prior to (garbled)?

23 A I believe the question was prior employment. Was at a --
24 was at another professional services firm, CBIZ.

25 Q And what was your role at CBIZ?

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1 A My role at CBIZ, which is publicly-traded professional
2 services firm, was similar. I was a managing director
3 responsible for the Central Region, but provided valuation
4 services really across the country, and, again, extensively in
5 the healthcare industry.

6 Q What's your educational background?

7 A Yes. I'm -- my undergraduate degree was -- was a finance
8 degree from University of Missouri Columbia. I received my
9 MBA, again with a finance emphasis, from Washington University
10 in St. Louis.

11 Q Do you have any professional certifications?

12 A Yes. Two. One, the CFA. And the second, the CEIV.
13 That's a newer designation. I received it through the AICPA.
14 It's Certified -- as you can see there, it's Certified in
15 Entity and Intangible Valuations. But it addresses
16 specifically fair value determinations for publicly-traded
17 entities.

18 Q Over the course of your career, how many valuations have
19 you performed?

20 A I wish I'd kept a log, but over the course of thirty-plus
21 years, you know, maybe fifty or so a year, so well over a
22 thousand. Maybe close to two thousand.

23 Q How many of those have involved healthcare companies?

24 A My focus has been on healthcare really since the early
25 '90s, so maybe two-thirds of my valuation work and experience

1 has been healthcare-related.

2 Q Broadly speaking, when performing a valuation, what do you
3 do?

4 A Yes. All valuations, whether it's on a business or an
5 asset, regardless of the industry, we're looking at three
6 approaches to value: An income approach, a market approach,
7 and an asset or cost approach.

8 Q Are these methodologies commonly used and accepted by your
9 peers as well?

10 A Yes. Yes, they're widely accepted.

11 Q And when you're performing a valuation of a healthcare
12 company, in your day-to-day -- your role at your job, what is
13 the purpose of that valuation work?

14 A It ranges. Oftentimes, we're brought in pre-transaction
15 to assist healthcare entities with their M&A activity. If
16 we're assisting not-for-profits, it's a combination of their
17 M&A activity as well as providing regulatory support if that
18 valuation is ever challenged. We also provide valuations
19 post-transaction for financial reporting purposes.

20 Q And did you apply those same methodologies that you use in
21 your ordinary job to the assignment in this case?

22 A Yes, I did.

23 Q How many times have you testified under oath as an expert?

24 A Probably over -- over the last thirty years, maybe every
25 other year, so maybe -- maybe fifteen times.

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1 Q Has any court ever rejected you as an expert?

2 A No.

3 MS. TOMKOWIAK: Your Honor, at this time, pursuant to
4 Rule 702, I'd just like to tender Mr. Moentmann as an expert
5 in the field of valuation.

6 THE COURT: Any comment?

7 MR. MORRIS: No objection.

8 THE COURT: All right.

9 MR. MORRIS: No objection.

10 THE COURT: He is so accepted.

11 BY MS. TOMKOWIAK:

12 Q Mr. Moentmann, what were you asked to do in this case?

13 A Yes. I was asked to assess the valuation of Cornerstone
14 based on the most recent information available, which in this
15 case were certain valuation reports that were prepared for
16 2020. The latest available up until a few days ago were the
17 June 30 reports.

18 Q Have you -- have you formed any opinions?

19 A Yes. We have.

20 Q Let's talk about your opinions. So if you can go to the
21 next slide. Can you please explain to the Court what your
22 first opinion is?

23 A Yes. The first opinion reflects my calculation of
24 Crusader's ownership interest in Cornerstone. It shows, as
25 presented in the second bullet on the slide here, that the

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1 subject equity interest ranges in value from \$48 through \$87
2 million.

3 Q If you can go to the next slide. Can you walk the Court
4 through your second opinion that's reflected on this slide?

5 A Yes. Yes, the -- the second opinion here focuses on
6 various issues that we identified in our review of the
7 information that was made available.

8 The first issue was the selection of very low market
9 multiples. The multiples used in the -- in the valuations
10 relative to what we observed in the marketplace were low, and
11 we did not see any explanatory information as to the selection
12 of those multiples.

13 The second, it was previewed a few minutes ago, and I
14 don't want to get too complex here, but involved the use of
15 the -- or, the estimate of the terminal value, their
16 methodology. And this was in the income approach that was
17 referenced earlier. The methodology that was used was market
18 multiples. They were essentially the same market multiples
19 that were applied in the market approach, rather than a Gordon
20 Growth method. And as I mentioned a few minutes ago, the
21 Gordon Growth method is what we typically see. It is the more
22 common of its -- in my experience.

23 I answered a question both yes and no because one could
24 use the market approach, an exit multiple, I think it was --
25 as it was called in the question. But that exit multiple

1 still needs to be consistent with market data, and to the
2 first point here, we think that -- you know, I think -- I feel
3 the exit multiples is -- is low, in my opinion.

4 The third issue here involves a CARES Act loan that the
5 company has on its books. It's a \$30 million liability. The
6 observation here is that, based on the information available,
7 we don't know to what extent, if any, this CARES Act loan is
8 forgivable.

9 Q Okay. And then I see the last bullet there references
10 inconsistencies between valuations. What do you mean by that?

11 A Yeah. The last bullet applies less to our conclusion and
12 more our observation of -- Houlihan had prepared reports as of
13 the same date for different clients, for Highland as well as
14 Crusader. And we're observing that they had a different value
15 opinion depending upon -- a different value range depending on
16 who the client was, even though the valuation was performed as
17 of the same date.

18 Q And I think you said you reviewed multiple valuations
19 provided by Houlihan. Were the issues you identified here --
20 in particular, the first and second issues -- present in all
21 of the valuations that you reviewed for Houlihan, regardless
22 of the particular time period?

23 A Yes. They were prevalent in all. I would say the CARES
24 Act loan I believe did not hit the books until April, so may
25 not have been prevalent in the early -- the early -- the

1 valuations prior to them.

2 Q What happens when you use, in your opinion, the right
3 assumptions?

4 A The use of the -- the right assumptions, is your question?
5 Right. I -- the use of the right -- could you repeat the
6 question?

7 THE COURT: Yes. Could you repeat your answer? You
8 broke off a little bit, sir.

9 MR. MORRIS: Your Honor, I've -- I've objected to the
10 question.

11 THE COURT: Oh. I didn't hear you were -- okay. You
12 objected to the question. And what is your basis?

13 MR. MORRIS: Just the use of the phrase the right
14 approach. Don't know if his opinion is any or more less valid
15 than any other opinion.

16 THE COURT: All right.

17 MS. TOMKOWIAK: Your Honor, I'm -- I can -- I'm happy
18 to rephrase the question.

19 THE COURT: Okay.

20 BY MS. TOMKOWIAK:

21 Q What happens when you use the approaches that you use, Mr.
22 Moentmann?

23 A Yes. The use of the assumptions that -- that I believe
24 are reasonable result in a valuation range -- actually, the
25 valuation range presented earlier.

1 Q You listened to Mr. Seery testify both at his deposition
2 and in court today; is that right?

3 A Yes, I did.

4 Q What are your reactions to his testimony as it relates to
5 the Cornerstone value?

6 A I've -- I had a handful of reactions to the testimony.
7 One was with regard to fair value and fair market value. And
8 as someone who's been in the valuation industry for over
9 thirty years, both premises of value, fair value and fair
10 market value, represent a valuation firm's, whether it's
11 Houlihan or Grant Thornton, it is that firm's opinion and best
12 estimate of a market participant value. Both definitions,
13 whether it's fair value or fair market value, focuses on
14 market participant, market participant concepts.

15 Another observation was the -- the use of -- the Gordon
16 Growth method only being applicable for dividend-paying
17 companies. And I can assure you, that's -- that is not the
18 case. This -- there are some methods, the discounted cash
19 flow method and -- and/or the Gordon Growth method, the use of
20 the Gordon Growth method to calculate a residual value or a
21 terminal value is used for all companies, regardless of
22 whether they're dividend-paying or not.

23 Q What is the most -- and by what, I mean by -- not the
24 information itself, but the date -- what is the most recent
25 value -- valuation information that you've been provided with

1 respect to Cornerstone?

2 A We -- we recently received a valuation, I think within the
3 last day or two, as of August 31st.

4 Q And so that was after you prepared and submitted the
5 declaration that you submitted in this case?

6 A Yes.

7 Q If we could go to that slide.

8 MS. TOMKOWIAK: So, consistent with Your Honor's
9 rulings, you know, we would proffer that we have this
10 information, the valuation performed by Houlihan in August,
11 but we have redacted it per this morning's rulings regarding
12 confidentiality.

13 BY MS. TOMKOWIAK:

14 Q Mr. Moentmann, my question is, without talking about the
15 numbers themselves, based on your of view of that valuation,
16 you know, what did it show in terms of, you know, trends in
17 the -- or performance with respect to the valuation of
18 Cornerstone?

19 A The valuation reflected an upward trend. Really, a
20 continued upward trend in the valuation of Cornerstone.

21 Q Were you able to tell if that was -- what that was based
22 on? Again, broadly speaking.

23 A Based on a quick review of it, yes. The -- that upward
24 trend in value was being driven primarily by the company's
25 continued strong performance and improvement in -- in

1 earnings.

2 Q If you took this latest valuation information, this latest
3 valuation into account in your own analysis, what impact would
4 it have?

5 A It would have a positive impact. The August information
6 reflecting the company's performance through August was
7 strengthening and is -- it would increase our valuation.

8 Q Let's go to the next point on the slide. So, I know that
9 you had summarized the various valuations that you have
10 reviewed. And, again, we have all of these valuations. We
11 have all of these numbers. Pursuant with the Court's rulings
12 this morning, we have redacted the numbers themselves except
13 for the \$30.5 million that the Debtor has already put in the
14 public record and your own valuation. Do you understand --
15 have you reviewed the Debtor's motion for approval of the
16 settlement that we've been discussing today?

17 A Yes.

18 Q And you understand that in that motion they've represented
19 that, for settlement purposes, they valued Crusader's
20 ownership interest in Cornerstone at a perceived fair market
21 value of \$30.5 million?

22 MR. MORRIS: Objection to the form of the question.

23 THE COURT: Okay. What exactly was it about the
24 question that you found objectionable?

25 MR. MORRIS: The number is the result of

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1 negotiations. And I think Mr. Seery testified quite clearly
2 that the notion of perceived market value, you know, probably
3 was a little bit misstated. It's -- it's a negotiated number.
4 That's where we are. That's all.

5 THE COURT: Okay. If you could rephrase, I sustain
6 that objection.

7 BY MS. TOMKOWIAK:

8 Q You understand that the damage award in this case is,
9 according to the Debtor in the motion that it's filed, it's
10 reducing the Redeemer award by approximately \$30.5 million to
11 account for the value that they've assigned to the Cornerstone
12 shares owned by Crusader, right?

13 A Yes. That's my understanding.

14 Q In your opinion and based on the accepted valuation
15 methodologies and standards in your field, is \$30.5 million
16 within the range of reasonable valuation of Crusader's
17 interest in Cornerstone today, based on the information
18 available to you?

19 MR. MORRIS: Objection to the form of the question.

20 THE COURT: Overruled.

21 MR. MORRIS: The use of the phrase --

22 THE COURT: Okay.

23 MR. MORRIS: Thank you.

24 THE COURT: I overrule.

25 THE WITNESS: No. As shown here, our opinion of

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1 value is presented at the bottom here. I found \$48 to \$87
2 million, I mean, is significantly in excess of the agreed-to
3 amount.

4 BY MS. TOMKOWIAK:

5 Q Right. And then the same question as of June 30, 2020.
6 In your opinion and based on the accepted methodologies and
7 valuation standards in your field, is \$30.5 million within any
8 range of a reasonable valuation of Crusader's interest in
9 Cornerstone, even as of June 30, 2020?

10 A Again, though, I misspoke on the earlier question. I was
11 referencing June on the earlier question. The August
12 valuation, as mentioned earlier, I think it would be only
13 higher than this. In both cases, no.

14 MS. TOMKOWIAK: Subject to redirect, I don't have any
15 further questions.

16 THE COURT: All right. Pass the witness. Mr.
17 Morris, any questions?

18 MR. MORRIS: Just a few, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. MORRIS:

21 Q Your valuation hasn't been market-tested, has it, sir?

22 A I'm not sure I understand the question of market testing.

23 Q It's not the result of any negotiation, is it?

24 A No, it is not.

25 Q Okay. And your valuation was prepared for purposes of

1 this motion; isn't that right?

2 A Yes, it was.

3 Q And you understand that the reports that were prepared by
4 Houlihan Lokey were prepared for the client's sole benefit,
5 not for purposes of litigation; is that right?

6 A Well, I'm not sure I understand that. I did not review
7 the engagement letter.

8 Q Okay. But you do understand that they -- because you
9 reviewed a number of monthly reports, you -- withdrawn. You
10 do understand that these reports are prepared monthly for the
11 benefit of Highland; is that right?

12 MS. TOMKOWIAK: Objection. This witness lacks
13 foundation on that.

14 THE COURT: Overruled. He can answer if he knows.

15 THE WITNESS: That's my understanding from the
16 testimony of Mr. Seery.

17 BY MR. MORRIS:

18 Q And in fact, you said that your firm prepares reports
19 similar in nature to the Houlihan reports, right?

20 A Yes.

21 Q And you don't prepare them in the ordinary course of your
22 business for purposes of litigation; is that right?

23 A Can you repeat the question?

24 Q Do you -- do you participate in the preparation of monthly
25 reports on behalf of clients?

1 A No, not in the context of -- of establishing an NAV.

2 Q Okay. I believe you testified that you could use a market
3 approach; there's nothing in the rules or principles of
4 valuation methodology that prohibits the use of a market
5 approach; is that right?

6 A Yes. I testified that a market approach is one of the
7 three primary approaches to value.

8 Q And I think -- I think on one of the slides there were a
9 couple of issues that were raised, and I think you testified
10 or you were asked whether the issues identified were prevalent
11 in each of the Houlihan Lokey reports. Do you remember that?

12 A Yes.

13 Q And that's -- they were prevalent because Houlihan Lokey
14 used consistently the same methodology; is that right?

15 A Yes. They used the same methodology.

16 Q And that's the methodology that you don't think they
17 should use but they think they should use; is that fair?

18 A With respect to the income approach, that's -- that is
19 correct.

20 Q Okay. Have you ever seen anybody publicly criticize
21 Houlihan Lokey for using a market approach as a methodology?

22 A Again, the question -- I think your question is
23 specifically to the use of the market approach within the
24 income approach and calculation of an exit multiple. I have
25 not seen any public statements regarding that topic.

1 Q And in fact, you can't identify any peer-reviewed article
2 or industry publication that specifically says that the Gordon
3 Growth Model is the preferred methodology as opposed to the
4 one employed by Houlihan Lokey; isn't that right?

5 A I can't point you to a peer-reviewed article, but I can
6 tell you from our review of peers what is the prevalent
7 methodology.

8 Q Okay. But nobody's out there writing that; that's your
9 interpretation of the marketplace. Is that fair?

10 A Well, I would say if the marketplace -- there are
11 publications that state how a discounted cash flow analysis is
12 to be performed. There's courses out there that address this.
13 So, --

14 Q Did you ever -- did you ever tell any of your clients who
15 use Houlihan Lokey that they shouldn't do it because Houlihan
16 Lokey uses a flawed methodology?

17 A I've never been asked or had the opportunity to comment on
18 Houlihan's valuation work.

19 Q In the competitive nature, in the competitive field of
20 competing for clients, you never tried to tell you clients,
21 don't use Houlihan, use Grant Thornton, we've got a better
22 method?

23 A I don't run into Houlihan that often in the healthcare
24 industry. I've got too much work myself to -- I find it poor
25 practice to badmouth my competition.

1 Q Good for you. I'm not surprised. Do you think -- do you
2 think Houlihan Lokey artificially manipulated their analysis
3 to come up with a lowball number?

4 A I don't -- I don't know what Houlihan -- I have no idea
5 what Houlihan was thinking with regard to their assumptions in
6 their analysis.

7 Q Did you make any attempt to reach out to anybody at
8 Houlihan to speak to them about their methodologies and the
9 areas that you claim to have identified?

10 A No, I did not contact Houlihan.

11 Q Can you think of -- does Houlihan have a reputation in the
12 industry for undervaluing assets?

13 A I'm not aware of Houlihan's reputation for overvaluing or
14 undervaluing assets.

15 Q So you, in your thirty years of practice, you've never
16 heard anything that causes you to conclude that Houlihan has a
17 reputation for undervaluing assets; is that fair?

18 A That's fair.

19 Q Okay. Can you think of any motivation that Houlihan Lokey
20 would have to undervalue the assets that are reflected in
21 Cornerstone?

22 A No, I'm not aware of Houlihan's motivations.

23 Q Okay. You said that the company was on an upward trend;
24 is that right?

25 A Yes. Specifically, the LTAC business, yes.

1 Q And do you recall yesterday I asked you about the cause of
2 any fluctuation in the value of Cornerstone and you told me
3 that it was the result of market forces and maybe COVID
4 issues?

5 A Yes. The upward trend could be attributed to market
6 forces, including COVID issues.

7 Q Right. Do you remember yesterday I'd asked you whether,
8 since coming to your conclusions, you've gone to your clients
9 and -- or informed your colleagues to try to find a buyer of
10 this grossly-undervalued asset? Remember I asked you about
11 that?

12 A Yes. I recall the question very well.

13 Q And you hadn't done so, right?

14 A I think it would be against our ethical guidelines, so I
15 have not done that.

16 Q Have you made any attempt to confer with either the
17 Redeemer Committee or the Debtor to see if you could, you
18 know, maybe Grant Thornton could act as a broker to, you know,
19 use their valuation report to sell this asset?

20 A No. We are not in the brokerage business.

21 Q Okay.

22 MR. MORRIS: I have no further questions, Your Honor.

23 MS. MASCHERIN: Your Honor, I have just a few
24 questions --

25 THE COURT: Okay.

1 MS. MASCHERIN: -- on cross, if I may.

2 THE COURT: You may. Go ahead, Ms. Mascherin.

3 MS. MASCHERIN: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. MASCHERIN:

6 Q Mr. Moentmann, am I correct that the earliest numbers that
7 you've referred to in the two different value estimates that
8 you gave on your last slide, the earliest of those dates was
9 June 30th of 2020? Is that correct?

10 A Yes, that is correct.

11 Q And that was based upon your review of Houlihan Lokey
12 valuation reports dated as -- for -- for the date as June
13 30th, 2020, correct?

14 A Yes. It was their reports as of that same date.

15 Q And would you agree, sir, based on your experience in
16 performing valuations, that that likely indicates a valuation
17 report that was prepared sometime after June 30th of 2020, so
18 as to take into consideration the company's performance during
19 the month of June?

20 A Yes, I would agree.

21 Q And do you have any idea, sir, when it was that either the
22 Crusader Fund or Highland Capital Management received
23 valuation reports for the Cornerstone asset valued as of June
24 30th of 2020?

25 A I don't recall specifically. I thought it was in -- in

1 July. It ought to have been subsequent to the June 30 date.

2 Q And you heard Mr. Seery testify this morning that the
3 negotiations that led to the compromised setoff for the value
4 of the Cornerstone asset took place in the March/April/May
5 time frame? Did you hear that testimony?

6 A Yes.

7 Q Now, in your report, sir, your declaration, and in your
8 testimony today, you made reference to certain different
9 reports that were prepared by Houlihan Lokey for different
10 clients. Do you recall that testimony, sir?

11 A Yes.

12 Q And what you meant by that is that, on the one hand, a
13 team from Houlihan Lokey does regular valuation reports under
14 contract for the Debtor, valuing the 50 -- approximately 58
15 percent or so interest that the Debtor owns or manages in
16 Cornerstone; is that correct?

17 A Yes.

18 Q And would you agree that the Debtor and its managed fund,
19 Restoration Capital Partners, together own the majority
20 interest of the shares in Cornerstone?

21 A Yes. I believe I even pointed that out in my declaration,
22 yes.

23 Q Right. And Crusader, on the other hand, owns something in
24 the low forty percents of the shares of Cornerstone, correct?

25 A Correct.

1 Q And would you agree, sir, that the -- based upon the
2 documents you've seen, the Crusader Fund's manager, Alvarez &
3 Marsal, contracts as well with a team from Houlihan Lokey to
4 value Cornerstone's interest in the Crusader -- or, in the
5 Cornerstone asset?

6 A Could you -- could you repeat the question?

7 Q Sure. You've seen documents that lead you to know, sir,
8 that Crusader likewise uses Houlihan Lokey to value Crusader's
9 low forty percent share of the Cornerstone asset, correct?

10 A Yes.

11 Q And you would agree that Cornerstone -- or, that
12 Crusader's interest in Cornerstone is a minority position?

13 A Yes.

14 Q And you would agree that the Houlihan Lokey valuations
15 that are provided to Crusader value Crusader's interest in
16 Cornerstone on a non-marketable minority interest basis,
17 correct?

18 A That's right.

19 Q And wouldn't you expect, sir, based upon your experience,
20 that there would be a difference in the value of -- in the
21 fair value estimate for a minority position in a privately-
22 traded company as compared to an estimate of value of a
23 majority interest in that same company?

24 A Generally speaking, yes.

25 MS. MASCHERIN: No further questions, Your Honor.

1 THE COURT: All right. Redirect?

2 MS. TOMKOWIAK: Yes.

3 THE COURT: Okay.

4 MS. TOMKOWIAK: I just have one, one question.

5 REDIRECT EXAMINATION

6 BY MS. TOMKOWIAK:

7 Q Sir, even setting aside your opinion regarding the errors
8 and the flawed methodologies in the Houlihan reports, is it
9 fair to say that, just looking at the most recent valuation
10 that you were provided, in your opinion is \$30.5 million
11 within any reasonable range of valuation for Crusader's share
12 of Cornerstone?

13 MR. MORRIS: Objection to the form of the question.

14 THE COURT: Overruled.

15 THE WITNESS: No.

16 BY MS. TOMKOWIAK:

17 Q So, your answer?

18 A Yes. My response was no. Again, based on our analysis
19 and the valuation range that was presented, we don't -- I
20 don't believe it would be reasonable.

21 Q Okay.

22 MS. TOMKOWIAK: I have no further questions.

23 THE COURT: Any recross on that --

24 MR. MORRIS: Nothing, Your Honor.

25 THE COURT: -- question?

1 MR. MORRIS: Nothing, Your Honor.

2 THE COURT: I have one follow-up question.

3 EXAMINATION BY THE COURT

4 THE COURT: I tend to think, and maybe I'm being
5 affected by certain healthcare Chapter 11s I've had in recent
6 months, but is it a tough time to value a healthcare business
7 like Cornerstone in 2020, with COVID? Are there challenges,
8 or am I making something up here?

9 THE WITNESS: I'd say it depends on the segment
10 within the healthcare industry. Some segments are of benefit.
11 I recently called three or four public companies in the
12 healthcare industry on behalf of a client that was selling
13 with -- a business within -- a segment of those within the
14 healthcare industry, and found all four public companies to be
15 highly interested and still very active in their acquisition
16 process.

17 THE COURT: Okay.

18 THE WITNESS: But I am aware there are some companies
19 that have been impacted. And that's -- that's the appearance
20 people --

21 THE COURT: Okay. Well, and maybe I asked it in too
22 general a way. I mean, the understanding I have of
23 Cornerstone is there's the long-term acute care business,
24 which you said is on an upward track, but then we have senior
25 living facilities as another big segment. So, focusing not

1 generally but more on private company in these segments in
2 healthcare, are there challenges with a company like this,
3 valuing it in a post-COVID/still under COVID times?

4 THE WITNESS: I think this is a segment with the
5 healthcare industry that -- where that challenge does not
6 exist. They're well-positioned for what's happening to the
7 population demographically within the United States. I think
8 the performance of the company during this time period is
9 reflective of the ability to continue to perform well and make
10 the evaluation process easier, if you will, or less -- less
11 impacted as compared to some of the other healthcare industry
12 peers.

13 THE COURT: So your answer is no, you don't think
14 there's any challenge valuing Cornerstone right now because of
15 the pandemic?

16 THE WITNESS: That's correct.

17 THE COURT: Okay. How big a segment of its revenue
18 is the senior care segment?

19 THE WITNESS: From a valuation perspective, on an
20 enterprise level, I believe it accounted for 10 to 20 percent
21 --

22 THE COURT: Okay.

23 THE WITNESS: -- of the aggregate enterprise value.

24 THE COURT: Okay.

25 THE WITNESS: That's including all the real estate.

1 Yes.

2 THE COURT: Okay. All right. Thank you.

3 I always give the lawyers a chance, if they want to ask
4 any follow-up questions, only based on the Court's question, I
5 think that's fair. So, anyone feel the need to ask a follow-
6 up question based on my questions?

7 MR. MORRIS: Just one, Your Honor.

8 THE COURT: Okay.

9 RECCROSS EXAMINATION

10 BY MR. MORRIS:

11 Q And that is, talking about COVID, does your valuation
12 assume that Cornerstone has received cash from the government
13 that is forgivable?

14 A We presented our value in a range to reflect that the cash
15 that was received, the \$30 million that I referenced, could be
16 completely repayable or could be completely forgivable. We
17 weren't privy to information with regard to the forgiveness of
18 that liability.

19 Q Okay. But that, that liability and that influx of cash is
20 something that is unique to the COVID period. Is that fair?

21 A It's -- it's fair. The cash is, or was, at least in the
22 -- in the company, although, as mentioned earlier, so is the
23 liability. So, on the one hand, it's neutral. I received \$30
24 million of cash; I have a liability for \$30 million --

25 Q Certainly --

1 A -- (overspoken).

2 Q Certainly helps cash flow, doesn't it?

3 A Yes. And that's why I made the statement about -- it does
4 help liquidity, yeah.

5 MR. MORRIS: Okay. No further questions, Your Honor.

6 THE COURT: All right. Either Ms. Mascherin or
7 Tomkowiak?

8 All right. Well, thank you, Mr. Moentmann. We appreciate
9 your testimony.

10 THE WITNESS: Thank you.

11 THE COURT: All right. Ms. Tomkowiak, do you have
12 any other evidence?

13 MS. TOMKOWIAK: I don't have any other witnesses,
14 Your Honor. Give me one moment, Your Honor, to confer with my
15 colleagues.

16 THE COURT: Okay.

17 (Pause.)

18 MR. CLUBOK: Your Honor, I don't know if this is
19 particularly out of order, but I'm going to just ask Your
20 Honor if we may also proffer. There were two Houlihan Lokey
21 valuations that were prepared for Redeemer and also a
22 presentation that was produced to us by Redeemer, all of those
23 excluded by your order this morning. We just would like to be
24 able to offer them under the same terms that we offered the
25 Houlihan valuations for -- that were prepared for Highland.

1 We'll put them under seal and just proffer them for the
2 record. We think the collection of all that shows a very
3 different story than what Mr. Seery described. But we would
4 get that for the time being, yes, Your Honor, as to avoid
5 that.

6 THE COURT: All right. So, just to be clear, you've
7 offered those and I have declined to admit those for reasons
8 I've stated earlier today. But you can put them in the record
9 as an offer of proof under seal, so that if there's any appeal
10 the higher court can see what it was that I refused to allow.
11 Okay? So you're going to have to get with the courtroom
12 deputy later and submit those under seal to be kept in the
13 record in case there's an appeal, okay?

14 MR. CLUBOK: Thank you, Your Honor.

15 THE COURT: All right. Any other evidence from UBS,
16 then? I think that's it, right?

17 MR. MORRIS: Your Honor, I would just -- I'd just ask
18 that it change sides to (garbled). In fairness (garbled), put
19 them all in, rather than being selective.

20 THE COURT: Okay. So you're saying that if -- you
21 want all --

22 MR. MORRIS: Otherwise (inaudible) better.

23 THE COURT: -- all of the Houlihan -- all of the
24 Houlihan reports should go in as part of the offer for proof?
25 Because your argument is if some of them were allowed in and

1 it was error, then all of them should go in. Is that your
2 point?

3 MR. MORRIS: Correct.

4 THE COURT: Okay.

5 MR. MORRIS: Correct.

6 THE COURT: So I don't know how far you mean to go
7 back in the past.

8 MR. MORRIS: Sure. Just to be very specific, from
9 March, I think, until August is the last one that has been
10 prepared by Houlihan, and it's been provided to UBS.

11 THE COURT: All right. So, Mr. Clubok, that is what
12 you're going to submit to the courtroom deputy to be your
13 offer of proof on this, March through August.

14 MR. CLUBOK: And first, Your Honor, that's fine, Your
15 Honor, with also the clear intention by doing that it reflects
16 that information, then -- and since -- now, since Mr. Morris
17 added that, then I'd (inaudible) there's also some sealed
18 testimony of Mr. Seery during his deposition that I didn't get
19 into because it was all, I thought, excluded under the same
20 rubric. And so the point-counterpoint, if Mr. Morris has an
21 offer of proof, that's fine, but if we just pull the whole
22 record in, the whole line, everything we got into, we could
23 put it in as an offer of proof and combine the information Mr.
24 Morris said and then the deposition testimony of Mr. Seery's
25 deposition. I would have explored all of this had I been

1 allowed to get into it. We make that as an offer of proof.

2 THE COURT: Okay.

3 MR. MORRIS: Your Honor?

4 THE COURT: I'm very confused.

5 MR. MORRIS: Yeah, the Debtor -- this is -- this is
6 -- they offered the reports, Your Honor made the ruling, and
7 they're doing this because they actually made an offer of
8 proof. They actually sought to introduce this into evidence.
9 They had Mr. Seery on the stand. They could have done the
10 exact same thing. They can't clean it up now.

11 THE COURT: Agree.

12 MR. CLUBOK: We -- hold on a second.

13 THE COURT: I sustain that objection.

14 MR. CLUBOK: Your Honor, if I can just respond here.

15 THE COURT: I sustain that objection, okay?

16 All right. Anything else?

17 All right. Anything in rebuttal, Mr. Morris?

18 MR. MORRIS: No, Your Honor.

19 THE COURT: All right. I'll hear closing arguments.

20 CLOSING ARGUMENT ON BEHALF OF THE DEBTOR

21 MR. MORRIS: Your Honor, I do want to keep this
22 relatively brief because I think the Debtor was easily -- are
23 you hearing background?

24 THE COURT: We're hearing a little bit of background.

25 Is that -- was that on Mr. Morris's end?

1 THE CLERK: Yes, because he's moving around.

2 THE COURT: Okay. I think it was just because you
3 were moving around, according to the court reporter. So,
4 anyway, but --

5 MR. MORRIS: I apologize.

6 THE COURT: -- I'm timing. Let's keep it within --

7 MR. MORRIS: It's five minutes.

8 THE COURT: -- you know, five to ten minutes per
9 argument, okay? You may proceed.

10 MR. MORRIS: Yeah. Thank you very much, Your Honor.
11 I think this is a very, very simple case under the standards
12 of 9019, a standard the Court is quite familiar with. And I
13 don't think there's any dispute between or among the parties
14 is focusing on the terms of the compromise, determining the
15 probability of success in litigation, the complexity and
16 likely duration of the litigation, other factors that courts
17 in the Fifth Circuit have interpreted to mean the paramount
18 interests of creditors, with proper deference to their
19 reasonable views, and the extent to which the settlement is
20 truly the product of arm's-length bargaining and not fraud or
21 collusion.

22 I'll take the last point first, Your Honor, because it's
23 just so simple. There's absolutely compelling evidence that
24 this settlement was the product of lengthy negotiations
25 between counsel, between principals, between counsel and

1 principals. You've heard Mr. Seery testify quite credibly
2 that there was a lot of back and forth. And obviously, there
3 is no evidence of fraud and collusion. So I think we get a
4 hundred percent on that prong of the ledger.

5 With respect to the paramount interests of creditors, Your
6 Honor, as the evidence shows, the Debtor, in choosing to
7 exercise its judgment to enter into this settlement, will be
8 ending litigation, I think, in five different courts in three
9 different countries, litigation that has cost the estate an
10 enormous amount of money, and they're doing so on terms that
11 are really fair and reasonable. And that is the standard,
12 Your Honor. It is not, is the Debtor maximizing value? While
13 you always hope to do so, that's really difficult when you're
14 in a 9019 motion. I've never heard of a movant either have
15 the burden or even suggest that somehow they're entering into
16 a compromise that maximizes value.

17 We've heard from the one witness that UBS offered. I --
18 there's no reason to challenge his qualifications. I'm sure
19 that he's a perfectly able professional. But I think the
20 Court should take into account the context in which he
21 prepared his analysis. That analysis was prepared in a mere
22 20 or 30 hours. It was prepared solely for purposes of this
23 litigation. And to his credit, the witness testified
24 unambiguously that his own clients rely on Houlihan Lokey.
25 There's nothing -- fraud in the methodology that Houlihan

1 Lokey employs. And the ultimate question is that he has no
2 reason to believe that it was unreasonable for the Debtor to
3 rely on the Houlihan Lokey report.

4 The evidence also showed, Your Honor, though, that the
5 Houlihan Lokey report was not the only data point that Mr.
6 Seery considered. He testified unambiguously and unchallenged
7 that he also communicated with Cornerstone's management, with
8 Cornerstone's board of directors, that he gets regular updates
9 about the financial condition and the performance of the
10 business, and that he specifically used that information to
11 validate the (garbled) further negotiation on this (echoing).

12 With respect to the reasonable deference of creditors,
13 Your Honor -- I don't know if somebody's -- can put their
14 phone on mute.

15 With respect to the reasonable deference of creditors,
16 Your Honor, there's only one creditor here who is challenging
17 the Debtor's motion, and not surprisingly, that creditor, UBS,
18 has had a very longstanding dispute itself with -- with the
19 Redeemer Committee. And I think it would be fair if the Court
20 took that into account in terms of litigation and perhaps
21 prejudice and bias.

22 The likelihood of success, I think, goes to UBS's argument
23 that the Debtor really should walk away from this deal and go
24 back to Chancery Court to relitigate the issues that the panel
25 has already decided with respect to whether the procedural

1 issues and the rendering of the award were proper.

2 You know, we've had a chance to analyze. Mr. Seery
3 actually, I think, described in some detail how the panel came
4 about, about its decision. I think he testified quite clearly
5 that Highland would be a particularly unsympathetic litigant
6 in the Chancery Court, having voluntarily participated in
7 arbitration for years, an arbitration pursuant to which the
8 parties engaged in substantial discovery.

9 Your Honor has the evidentiary -- not the evidentiary
10 record, but Your Honor has the very extraordinarily detailed
11 findings of the panel. Those findings refer to substantial
12 evidence, both documented and testimonial evidence. The
13 findings made severe credibility findings, a lot of which,
14 quite frankly, are not flattering to the Debtor. And Mr.
15 Seery specifically testified that he took all of that into
16 account in assessing the probability or the likelihood of
17 success of going back to Chancery Court and prevailing.

18 With respect to the compromise that was made on the
19 deferred fees, in all honesty, Your Honor, I don't see how
20 that can be challenged on any rational basis. If you followed
21 UBS's path, we would have, in the first instance, another
22 litigation over setoff. And once that litigation was
23 resolved, whether it's hundred-cent dollars or bankruptcy
24 dollars, the Debtor would have to return that to Redeemer
25 Committee and then wait until this bankruptcy is over before

1 it can even ask for the deferred fee.

2 You've heard very, very clear, unambiguous testimony,
3 unchallenged testimony, from Mr. Seery that when they finally
4 do get around to making that request, they're going to be
5 involved in another litigation. Why? Because during the
6 negotiations, the Redeemer Committee made it crystal clear
7 that it was relying on the Faithless Servant defense. Is it
8 one that is, you know, common? It's not common, but it has
9 been used successfully. And the fear that Mr. Seery
10 specifically described is that the findings in the arbitration
11 award might give credence to the Faithless Servant defense.
12 And having gone through the setoff litigation, having paid the
13 money, having waited the time, having spent the cost to
14 litigate the issue again, they might lose. And I think if
15 Your Honor reads the partial final award, you may come to the
16 same conclusion.

17 Whether you do or you don't, Your Honor, the point is that
18 the evidence is crystal clear that there is a very strong
19 foundational evidentiary basis for the Debtor's decision to
20 enter into this award, and there's no question that it meets
21 the standard of 9019.

22 Again, Your Honor, we would remind the Court, not that I
23 need to, but that the test here isn't maximization of value.
24 It's not getting the most that you possibly can. It's taking
25 everything into account. Is this in the best interest of the

1 estate? And I do not think this is a close call.

2 Unless Your Honor has any questions, I have nothing
3 further.

4 THE COURT: I did have one follow-up question on the
5 deferred fee compromise. I'm wondering if you could generally
6 quantify: Assuming a hundred percent success for UBS, I'm
7 trying to figure out how big a discount the 20 percent -- I
8 mean, the \$20 million number was. Because I understand \$32
9 million is what Highland paid itself early. But then I
10 understand the component, the award component of the \$190
11 million arbitration award, it was \$43.105 million because of,
12 I guess, interest, calculating interest from the date they
13 paid themselves the \$32 million until the time of the award.
14 Right? And the award, was it March of 2018 or September 2018?

15 MR. MORRIS: The partial final award was March.

16 THE COURT: Yes.

17 MR. MORRIS: The final award was May.

18 THE COURT: Okay. So I assume, then, we keep
19 calculating interest post --

20 MR. MORRIS: Until the petition date.

21 THE COURT: Until the petition date.

22 MR. MORRIS: Yeah.

23 THE COURT: So we're at -- and it was a high interest
24 rate, right? Nine percent? High these days, right? Nine
25 percent?

1 MR. MORRIS: Well, just to be clear, Your Honor,
2 you're absolutely right, you have a great memory, it is nine
3 percent. But that's statutory interest in New York.

4 THE COURT: Right.

5 MR. MORRIS: Those of us who live in New York always
6 call it the absolute best investment you could make if you
7 actually have a liquid defendant. I mean, nine percent
8 guaranteed.

9 THE COURT: I'd rather have that --

10 MR. MORRIS: No doubt --

11 THE COURT: I'd rather have that than my mutual fund
12 right now. So, --

13 MR. MORRIS: Yeah.

14 THE COURT: So we're talking close to \$50 million.
15 But that's not even the whole story, right? Because they,
16 they'll get it -- not only would they maybe never have to pay
17 it back because of this Faithless Servant award, but even if
18 they did have to pay it back, it wouldn't be until the
19 Crusader Fund was liquidated, --

20 MR. MORRIS: Correct.

21 THE COURT: -- and litigation?

22 MR. MORRIS: Which can't happen until this -- which
23 can't happen until this case is completed, --

24 THE COURT: So, --

25 MR. MORRIS: -- which means the estate claims that

1 are going to be prosecuted by the UCC and any of its
2 successors against Mr. Dondero and his affiliates, all of that
3 has to play out. And UBS, more than anybody in this
4 courtroom, should know how long it takes to litigate with Mr.
5 Dondero. Maybe he'll have a change of heart. Maybe something
6 different will happen. But based on prior experience, I don't
7 think this Court or anybody should make any assumptions as to
8 this case being ended quickly.

9 THE COURT: Okay.

10 MR. MORRIS: Just based on history.

11 THE COURT: All right. Thank you. I'll go to
12 friendly parties next.

13 Ms. Mascherin, anything you wanted to say as far as
14 closing argument?

15 MS. MASCHERIN: Yes, Your Honor. Thank you.

16 CLOSING ARGUMENT ON BEHALF OF THE REDEEMER COMMITTEE

17 MS. MASCHERIN: First of all, with regard to the
18 deferred fees, I think Your Honor has already made all the
19 points that I would have made had I argued that. Suffice it
20 to say that I think any reasonable person would conclude that
21 it is a reasonable compromise for the Debtor to retain two-
22 thirds of the \$32.3 million that the Debtor, as the panel
23 found, as Mr. Seery testified, helped itself to in early 2016.
24 That amount -- there's no assurance that that amount would
25 ever come back to the estate upon complete liquidation of the

1 Fund, and the Redeemer Committee at least is quite confident
2 that, whether or not a settlement here, the factual findings
3 that were made in that arbitration certainly were replete with
4 findings of breaches of fiduciary duty, of willful misconduct,
5 and of other misconduct which would provide a firm basis for
6 showing that Highland was, in fact, a faithless servant.

7 I would submit that's why the Redeemer Committee fired
8 them as manager of the Fund when it -- when the Committee
9 learned that they had taken the \$32.3 million without the
10 right to take it.

11 With regard to the likelihood of success assessment, Your
12 Honor, I would submit that the record is likewise clear. The
13 only issue that UBS raises with regard to the litigation, the
14 compromise of the litigation, has to do with two procedural
15 challenges that the Debtor had raised when -- in the
16 proceedings to confirm the award in Delaware. As Your Honor
17 knows, arbitration awards under the Federal Arbitration Act
18 are pretty close to sacrosanct. The grounds on which an
19 arbitration award can be challenged are quite limited.

20 The two procedural arguments that the Debtor made, one
21 having to do with whether pre-judgment interest should
22 continue to run after the date of partial final award, and the
23 other dealing with the relief that the panel, as Mr. Seery
24 testified, inadvertently omitted due to a scrivener's error
25 with respect to what was referred to in the arbitration as the

1 Barclay's claim, both of those procedural issues were raised
2 by the Debtor and were ruled upon by the arbitration panel.
3 And the panel found that it -- that because its first award
4 was specifically denominated as a partial award and not a
5 final award, that the panel had jurisdiction to award
6 additional pre-judgment interest for the small period between
7 March and May, which is all that was at issue with respect to
8 that disputed pre-judgment interest amount.

9 And likewise, the panel found that it had the power under
10 the AAA rules to correct the scrivener's error, the clerical
11 error that resulted in the omission -- the inadvertent
12 omission from the partial final award of the damages amount
13 that the panel was awarding for the finding it made in the
14 partial final award that Highland Capital Management had taken
15 -- had improperly taken for its own account any of the
16 partnership's interest that had belonged to Barclay's, and
17 Highland had done that despite the Committee's express
18 disapproval of the terms of a settlement with Barclay's.

19 Importantly, Your Honor, the AAA rules specifically
20 allocate to the panel the jurisdiction to interpret the AAA
21 rules. And the Fifth Circuit has held that in circumstances
22 like this, where the applicable arbitration awards -- or
23 arbitration rules give the arbitrator the jurisdiction to
24 interpret the rules, the arbitrator's findings bind the
25 parties to the arbitrator's interpretation, so long as it is

1 within reasonable limits, even where reasonable judges and
2 arbitrators could interpret the AAA rules differently.

3 That's coming from the *Communication Workers of America, AFL-*
4 *CIO v. Southwestern Bell Telephone Company* case, 953 F.3d 822,
5 a Fifth Circuit decision from this year, 2020, Your Honor.

6 And that's cited in our -- in the Debtor's motion to approve
7 the settlement.

8 So I think it certainly is the case that the Debtor made a
9 reasonable assessment that it would be unlikely to succeed if
10 it continued to prosecute in Delaware that motion to vacate
11 those two small parts of the arbitration award.

12 Finally, Your Honor, with regard to the Cornerstone asset,
13 let me review what the current state of facts is with regard
14 to that asset. And I feel that I must need to -- I must do
15 this this because Ms. Tomkowiak, if I said that correctly, Ms.
16 Tomkowiak suggested a couple of times that the Cornerstone
17 asset somehow is an asset of the Debtor's estate. She made
18 reference to the Debtor forfeiting the Cornerstone asset or
19 giving up the Cornerstone asset. That is, simply put, Your
20 Honor, a fallacy.

21 As things stand right now, the Crusader Fund owns
22 approximately 42 percent of the shares of Cornerstone. The
23 Debtor and its managed fund, Restoration Capital Partners,
24 owns the rest. The panel ordered the Debtor, as part of its
25 award, to pay the Crusader Fund \$48 million in principal plus

1 approximately \$24 million in pre-judgment interest on that
2 amount, for a total of \$72 million. And the award
3 specifically provides that, upon payment of that amount to the
4 Crusader Fund, the Crusader Fund should transfer its 42
5 percent interest in Cornerstone to the Debtor.

6 Your Honor, it is undisputed that the Debtor doesn't have
7 \$72 million to pay to purchase those shares. We heard Mr.
8 Seery today testify that the Debtor doesn't want to acquire
9 those shares. The Debtor is in liquidation. So what the
10 parties did here was reach a compromise.

11 In addition to the substantial offset of the arbitration
12 award relating to the two-thirds of the deferred fees that I
13 already spoke about, the parties also agreed to offset a
14 negotiated amount for a fair market value of Crusader's
15 minority 42 percent shares in Cornerstone as of the time of
16 the negotiations, as Mr. Seery testified, in the spring, late
17 spring of 2020. That offset that the parties agreed to as a
18 compromise was \$30.5 million.

19 Now, to be clear, Crusader and the Redeemer Committee
20 would have the right not to enter into any settlement and to
21 ask Your Honor to confirm the arbitration award or to go back
22 to Delaware and seek to lift the stay to have the award
23 confirmed there. And if we did that, then we would continue
24 to hold a claim for seventy -- you know, a portion of which
25 \$72 million would be for, for sale of that -- of those

1 Cornerstone shares to the Debtor.

2 But Your Honor, that's a fantasy. We much prefer to enter
3 into a settlement here. We think that the -- I would submit
4 that the compromise that my clients and the Debtor reached to
5 allow the Debtor not to have to purchase those shares, to
6 allow for what the parties agreed to as a reasonable offset to
7 the claim amount to account for the fact that the Debtor will
8 not be purchasing their shares, is eminently fair. And it's
9 of great value to the estate. The estate doesn't have to pay
10 to buy those shares and the Debtor gets, in addition, the
11 benefit of the Redeemer Committee and the Crusader Fund
12 agreeing to compromise to try to monetize its minority
13 position in Cornerstone, along with the majority position
14 that's held by Highland Capital Management and its managed
15 fund, Restoration Capital Partners.

16 And as Mr. Seery testified, there are -- Restoration
17 Capital Partners is majority-owned by a number of independent
18 investors. They're entitled to the best value for their
19 shares in Cornerstone. My clients are entitled to the best
20 value for its shares in Cornerstone. And Highland is entitled
21 to the best value for the shares it owns in Cornerstone. And
22 that value can only be maximized, Your Honor, if the company
23 is available to be monetized as a whole.

24 So I would submit, Your Honor, the compromise is eminently
25 reasonable. The Debtor, I believe, has met its burden of,

1 under the applicable Fifth Circuit case law, of demonstrating
2 that the compromise is reasonable and is fair to the estate
3 and to the creditors of the estate. And we would ask that
4 Your Honor approve the settlement. Thank you.

5 THE COURT: Thank you. Ms. Tomkowiak, you're next.

6 MS. TOMKOWIAK: Thank you, Your Honor.

7 CLOSING ARGUMENT ON BEHALF OF UBS SECURITIES, LLC

8 MS. TOMKOWIAK: I'll try to keep (garbled) I'm
9 responding to two.

10 Your Honor, the -- this settlement is not fair, equitable,
11 or (garbled). We don't think it's a close call, either.
12 Whether you look at each component or you evaluate it as a
13 whole, as Mr. Seery purports to do, we think that the Debtor
14 did in fact roll over. The bottom line there is that the
15 compromises made by the Debtor result in Redeemer getting more
16 than a hundred percent recovery on their claim, in real
17 hundred-dollars, even using the very lowest possible value
18 that anybody has calculated for Crusader's Cornerstone shares,
19 as the Debtor did.

20 It's the Debtor's burden to show that it exercised
21 business judgment here within a range of reasonableness. They
22 haven't submitted any evidence to meet that burden or to allow
23 this Court to conduct the independent analysis that it's
24 supposed to do before approving this deal.

25 Again, the analysis of problems with it -- including with

1 respect to the way that the parties have allocated litigation
2 risk, giving a lot of value to claims which have not even
3 begun to be litigated and giving zero value to claims which,
4 in fact, are at the very late stages of litigation in Delaware
5 and could be dealt with in short order.

6 But the biggest problem, again, with the settlement is
7 that instead of the estate getting a meaningful asset that
8 could be worth up to \$80 million, Redeemer effectively gets to
9 keep it and -- for \$30 million.

10 We believe that the Debtor has grossly undervalued those
11 shares. Their fair market value calculation, or whatever they
12 want to call it -- they called it in their motion their fair
13 market value calculation -- is based on the very lowest end of
14 a valuation range prepared by Houlihan Lokey back in the
15 spring, despite the availability of much more recent
16 information.

17 Mr. Seery has provided no basis for using a valuation
18 back in March, and particularly in the midst of the
19 uncertainty caused by the developing pandemic at the time.
20 The testimony was, so that's when we started to negotiate this
21 deal. But the settlement was not finalized until six months
22 later. And so if there was a lot of back and forth, as Mr.
23 Morris just said in his closing, well, I guess that happened,
24 you know, six months ago, when apparently the Debtor has
25 chosen to freeze inexplicably the value of this asset.

1 Again, there is no evidence that that \$30.5 million is
2 fair or within any range of reasonableness. Not only did the
3 Debtor not put in any evidence, it was successful in excluding
4 evidence that went directly to the valuation of this asset.

5 Despite succeeding on that, Mr. Seery did not quibble with
6 my colleague Mr. Clubok's questioning. He agreed with the
7 general proposition that the current value of Cornerstone is
8 higher today than what's been taken account into the
9 settlement.

10 This is a settlement of a, you know, a \$190 million claim,
11 and UBS notes that the Debtor has scores of financial advisors
12 who are being paid tens of millions of dollars every month to
13 analyze claims and assets. We see their fee statements. And
14 not a single one of them, including Houlihan Lokey, anyone at
15 the premier firm of Houlihan Lokey whose names Mr. Seery did
16 not even know, are here to testify today. Or any of the other
17 financial advisors.

18 According to our expert, who is, you know, the only
19 evidence that is before this Court, Mr. Moentmann -- he does
20 this for a living; he values healthcare companies in the real
21 world, unlike Mr. Seery, who does not -- the value assigned to
22 Cornerstone in the settlement falls below any reasonable range
23 of what Cornerstone is worth today or even what it was worth
24 back in June, let alone back in March.

25 And yes, he prepared his opinion for purposes of this

1 litigation, but he's not a professional testifier. This is
2 what he does for a living. He testifies once every couple of
3 years. And he did a valuation analysis exactly like what he
4 would do in the real world for a healthcare company, as he's
5 done for the past 30 years.

6 And when he corrects for the significant flaws in the
7 assumptions used by Houlihan Lokey, the true value of the
8 asset that the Debtor is giving up -- they're giving up the
9 right to receive it. I understand that they don't have it,
10 but they -- the arbitration award explicitly said that they
11 have the right to get it. It is -- it should be theirs. And
12 they're giving up that asset. And according to Mr. Moentmann,
13 when he accounts for all of the significant flaws in the
14 assumptions used, that asset is worth double or triple what
15 the Debtor has assigned to it for settlement purposes.

16 Now, again, Mr. Seery testified today that he expects
17 Redeemer will recover one hundred percent of its allowed \$137
18 million claim in real dollars. I don't -- based on those
19 numbers alone, I don't understand, respectfully, Ms.
20 Mascherin's argument that the Debtor somehow doesn't have the
21 ability to purchase the shares for \$48 million.

22 I also, frankly, don't understand the argument that the
23 value can only be maximized when monetizing this asset as a
24 whole. And to be clear, I understand that argument, but I
25 don't get why that can only happen in a settlement where

1 Redeemer and the Debtor agree to work together to do that, as
2 opposed to the Debtor getting Crusader's portion of the
3 Cornerstone shares, as it was required to, and then working to
4 monetize that asset as a whole.

5 My final few points, Your Honor. I think the value of
6 Cornerstone -- it's been said a lot today that this is not a
7 valuation case, but it matters when you are looking at an
8 asset with potentially a \$50 million swing in the true value
9 of it. That matters in the context of a case where the Debtor
10 has said that they expect to distribute \$195 million to
11 creditors. So giving -- giving up the right to this asset
12 matters. And yes, it hurts the remaining major creditor,
13 which is UBS.

14 Now, Mr. Morris talked about, you know, UBS's motive and
15 our supposed prejudice and bias. And we have no longstanding
16 dispute with the Redeemer Committee. Ironically, it's
17 actually the Debtor and Redeemer who have had their
18 longstanding dispute. But now they've teamed up to object to
19 our claim and to, you know, strike this deal that we believe
20 provides Redeemer with a more than one hundred percent
21 recovery windfall.

22 So, Your Honor, we think the settlement should not be
23 approved, and we only -- don't think it should be approved
24 without holding the Debtor to its burden to provide actual
25 evidence, including evidence of the value of the Cornerstone

1 shares that are forfeited in this settlement.

2 And alternatively, I would just reiterate what I said in
3 my opening, that if you are inclined to approve the settlement
4 anyways, in the event that a sale of Cornerstone does occur in
5 the future and the purchase price is well above the value that
6 that asset has been assigned here, then we request that the
7 Court take the proceeds of that sale into consideration at the
8 time of plan confirmation when the distributions are to be
9 made. And it should -- the outcome of that sale should be
10 taken into account when calculating Redeemer's recovery.

11 THE COURT: Okay.

12 MS. TOMKOWIAK: Thank you, Your Honor.

13 THE COURT: Thank you.

14 Well, I thank you all for your hard work in the pleadings
15 as well as the presentations here today. I assure you that
16 we've read the paperwork very carefully and considered all
17 your evidence carefully today.

18 As we know, with regard to this motion to approve
19 compromise of controversy, the Court is guided by Bankruptcy
20 Rule 9019. And that rule does not say a heck of a lot, but
21 we've got lots of jurisprudence to guide the Court. Cases
22 such as the *AWECO* case, the *Jackson Brewing* case, the *TMT*
23 *Trailer Ferry* case, *Cajun Electric*, *Foster Mortgage*, all of
24 these were cited in the papers. And the legal standards that
25 those cases instruct this Court to use are the Court has to

1 evaluate whether the compromise and settlement is fair and
2 equitable and in the best interest of creditors when
3 considering three things: One, the probability of success on
4 the merits in future litigation, with due consideration for
5 uncertainty of law and fact; two, the complexity and likely
6 duration of litigation and any attendant inconvenience and
7 delay; and three, all other factors bearing on the wisdom of
8 the compromise.

9 The Court is also supposed to consider the paramount
10 interests of the creditors.

11 So I will back up and find that we have had all required
12 notice of this motion. And when applying those legal
13 standards I just outlined, the Court finds that this
14 settlement is eminently reasonable, fair and equitable, in the
15 best interest of creditors, and so therefore I am approving
16 it.

17 I will note a couple of pieces of evidence, or more than a
18 couple, a few pieces of evidence that were especially
19 persuasive to me. First, I will say that Mr. Seery's
20 testimony was very credible to me. And I do believe that he
21 did not consider this a laydown by any means, and I don't
22 think it was by any means. The facts are that this settles
23 many, many years of litigation, as someone said, in five
24 different fora, in three different countries. And there was a
25 nine-day trial in front of a very respected arbitration panel.

1 And I agree with the verbiage of Ms. Mascherin that the
2 arbitration award is very much sacrosanct. This isn't a
3 situation where, you know, if I lifted the stay and allowed
4 things to go forward in the Delaware Court to see if they
5 would confirm the arbitration award, it's not a situation
6 where there would be a heck of a lot of arguments the Debtor
7 could make to refute the \$190 million award or knock it down
8 very much. Things like fraud, misconduct, a very narrow set
9 of circumstances would have to be demonstrated. It certainly
10 wouldn't sit in the shoes of an appellate court.

11 So I think that is a very relevant factor that certainly
12 shows the Debtor didn't lay down here. The Debtor's options
13 were narrow with regard to challenging very many aspects of
14 the arbitration award.

15 I believe that Mr. Seery and the board did a lot of due
16 diligence as far as evaluating their options here. I believe
17 that there were good-faith arm's-length negotiations. And
18 specifically, the reductions, if you will, seem extremely
19 reasonable to this Court.

20 With regard to the \$20 million credit on the \$190 million
21 award for the deferred fees, it appears to me the Debtor got a
22 pretty good deal on that one. You know, it looks like to me
23 we really started at a number around \$43 million that would
24 have gone up with time in interest. And there was a strong
25 argument that, once the Debtor paid that back, that there

1 would be no obligation to ever kick in under the Faithful
2 Servant Doctrine for the Redeemer Committee/Crusader to ever
3 have to pay it back again to the Debtor. So I think that \$20
4 million number settled on is a very fair number.

5 With regard to the \$30.5 million number for the
6 Cornerstone credit that has been so contentious today, I
7 respect the arguments, but ultimately it bears emphasizing
8 this was a negotiated amount, not a situation where there was
9 a precise valuation that was even required.

10 And I think it is very significant that we're talking
11 about a minority interest, a 42 percent minority interest that
12 Highland was required to buy back. And one could almost take
13 judicial notice that minority interests in private companies
14 are darn hard to value, and some might say should be
15 discounted.

16 And while I found Mr. Moentmann to certainly be well
17 qualified and explained well his different views, at bottom, I
18 don't find them to be as persuasive as Mr. Seery, in that he
19 has spent two weeks on the assignment and 20 to 30 hours. You
20 know, certainly, I think reasonable minds can differ, but at
21 bottom the \$30.5 million number was within the range of
22 reasonableness for a compromise on this amount.

23 I'll just emphasize further that, with regard to
24 Cornerstone, I felt like the \$30 million CARES Act loan should
25 be regarded as a huge question mark, uncertainty, as far as

1 affected value. The fact that no one knows if it's forgivable
2 or not, well, that's a pretty big deal. And it's just one of
3 many reasons I think there's a big range of possibilities
4 here, so that the number that the Debtor settled on is
5 certainly within the range of reasonableness.

6 All right. So, with that, I approve the compromise and
7 will look to Debtor's counsel to submit a form of order. All
8 right. Thank you again.

9 We now are going to turn to Acis, and let's talk about
10 timing. Mr. Morris, are you the key presenter on this one or
11 is Mr. Demo going to be?

12 MR. MORRIS: No, I will be the presenter on this one,
13 though Mr. Demo will address the Court certainly with respect
14 to two of the legal issues on the Daugherty objection. But
15 otherwise this one is all mine as well.

16 THE COURT: All right. So, shall we roll to
17 extremely brief opening statements? I guess one thing I'll
18 need you to tell me is, do we really have five objections, or
19 do we have two? Have the sort of limited objections been
20 resolved, or no?

21 MR. MORRIS: Your Honor, that is an excellent
22 question. They haven't been resolved consensually, but they
23 ought to be, based on the testimony from Saturday's
24 deposition. And if I can, I'd be happy to just start with
25 that issue first, if you'll just give me a moment.

1 (Pause.)

2 THE COURT: Okay.

3 OPENING STATEMENT ON BEHALF OF THE DEBTOR

4 MR. MORRIS: Okay. Putting aside Mr. Dondero and Mr.

5 Daugherty for the moment, there are three other objections:

6 One by CLO (garbled). That was filed at Docket No. 1177. One

7 by Highland CLO Funding Limited, filed at Docket No. 1191.

8 And one filed by HarbourVest at Docket No. 1195.

9 I believe all three of these objections or responses
10 either objected to or reserved their right to object to one
11 provision of the settlement agreement pursuant to which the
12 Debtor would have the obligation to transfer its rights in an
13 entity called Highland HCF Advisors Limited to Acis if the
14 Debtor had received written advice from nationally-recognized
15 external counsel that it is even permissive -- permissible to
16 make that transfer.

17 That can be found, Your Honor -- the settlement agreement
18 is Exhibit 1 to my declaration, and I believe when I offer
19 that into evidence it'll be Exhibit #3. But that's where the
20 settlement can be found, and this is Paragraph 1(c). And that
21 matter really, from the Debtor's perspective, has been
22 resolved. Mr. Seery testified on Saturday and he will testify
23 again today that the Debtor has obtained the advice of the
24 WilmerHale firm, I believe, and that advice is that it is --
25 they cannot give the comfort that if they transferred that

1 asset that it would be legally permissible and that the Debtor
2 would bear no risk.

3 So, from my perspective, that objection or reservation of
4 rights, depending on the party, should be resolved.

5 There were two other issues, I think, raised. I know it
6 was HarbourVest. I'm not sure who the other one was. But
7 they're both related to whether or not the release applied to
8 them. HarbourVest in particular objected on the ground that
9 the release -- to make sure that the release doesn't release
10 any claims that HarbourVest may have. It does not, Your
11 Honor. I think a plain reading of the release shows that
12 HarbourVest is not implicated.

13 In addition, HCLOF also -- HarbourVest is an investor in
14 HCLOF. And HarbourVest -- HCLOF, rather, Your Honor, is
15 specifically excluded from the release. So HarbourVest is not
16 included, and HCLOF, the entity in which HarbourVest invested,
17 is actually specifically carved out of the release, so that
18 there's no ambiguity.

19 So I think, on that basis, Your Honor, perhaps it would be
20 most efficient to hear from those three particular parties.
21 You know, Mr. Seery will testify, and if you want to take him
22 out of turn and do that now on the issue of the advisors and
23 the advice that he's received, I'd be happy to do that.

24 THE COURT: All right. Well, maybe we should first
25 hear from our objectors.

1 Let me start with HarbourVest. I have misplaced for a
2 minute my appearance. I think it was Ms. Weisgerber. Was it
3 Ms. Weisgerber who was appearing for HarbourVest?

4 MS. WEISGERBER: Yes.

5 THE COURT: Okay.

6 MS. WEISGERBER: Yes, Your Honor.

7 THE COURT: Do you -- have you heard what you need to
8 hear to withdraw your limited objection, or no?

9 MS. WEISGERBER: Your Honor, I think we're -- we're
10 pleased to hear those updates from the Debtor. I think, from
11 our perspective, we'd just look to a couple of housekeeping
12 matters regarding documentation of this. Specifically with
13 respect to the release point, in the settlement itself there
14 are certain entities that are explicitly carved out of the
15 release, and we would ask that HarbourVest be included as an
16 explicitly carved-out party, for the avoidance of doubt,
17 whether that appears in the settlement agreement or in the
18 order approving the settlement.

19 So, I'll pause on that, and then I'll just turn to the
20 second issue, to confirm if the Debtors are amenable to that.

21 MR. MORRIS: Well, we don't have the exclusive right
22 in this regard. If you'll give me one moment, I'm going to
23 just confer --

24 (Pause.)

25 MR. MORRIS: -- the Court to the next issue, if you

1 may, while I'm trying to resolve this. Because that is
2 certainly our intent. We never intended HarbourVest to be
3 part of this. And we would have no objection if the Court,
4 either through an order or otherwise, made it clear that
5 HarbourVest is not subject to the release.

6 MS. PATEL: Well, let me chime in. Mr. Morris, if
7 it's me that you're looking to confer with, I'm not sure, or
8 if it's Mr. Seery, but I think I can go ahead and address
9 this.

10 And, Your Honor, just to back up for a quick second on
11 this issue, I wanted to just, of course, remind not only the
12 Court but the other parties of the overall structure here.
13 And as Your Honor may remember, Acis is the portfolio manager
14 for certain CLOs in which Highland CLO Funding owns the --
15 either the majority or all of the equity strip and equity
16 piece.

17 Separate and apart from that, Highland CLO Funding's
18 investors, conversely, are an entity by the name of CLO
19 Holdco, who has filed a limited reservation of rights, solely,
20 frankly, on the HCF Advisor transfer piece. More on that in a
21 minute, if you care to hear it. But, and also HarbourVest.
22 And HarbourVest, just to refresh the Court's recollection and
23 the other parties, was the secret third-party investor that
24 you heard oodles and oodles and oodles of testimony regarding
25 during the Acis bankruptcy case.

1 And then Highland and certain Highland employees'
2 retirement funds own the other remaining two percent equity
3 interest in Highland CLO Funding.

4 So what we're really talking about here, Your Honor, in
5 connection with HarbourVest, is something that is one step
6 removed from even the equity piece. So I just want to be on
7 record as saying, number one, Acis would dispute very hotly
8 that any duties -- and whether any duties are owed to entities
9 such as CLO Holdco or HarbourVest or HCLOF. There is -- it's
10 frankly beyond the scope of the hearing today. And our
11 position is that, certainly as it relates to HarbourVest or
12 CLO Holdco, Acis owes no duties by virtue of its role as
13 portfolio manager to the Acis CLOs.

14 Secondly, Your Honor, let's go to the issue of whether
15 there are even any potential claims. And with respect to
16 that, you know, there's at least, if not by implication, and
17 perhaps not in connection directly with HarbourVest, but
18 others that are objecting, so I'll just go ahead and address
19 the issue now: There are implications of some sort of
20 mismanagement. And I and Acis want to be clear on record as
21 saying those are obviously hotly-disputed issues as well.
22 Your Honor, frankly, those types of implications or claims are
23 unfounded and specious with respect to any mismanagement
24 allegations, and are frankly offensive, given the facts here.
25 Many are based by certain of the objectors and have -- on

1 prior -- testimony provided prior to the confirmation and have
2 been soundly rejected by this Bankruptcy Court.

3 Second, these Acis CLOs, frankly, Your Honor, have
4 performed either as well or better than the broad CLO market
5 since Brigade took over from Highland. And as you may recall,
6 Your Honor, Brigade started behind a \$300 million eight-ball
7 created by former Highland Capital Management leadership. So
8 to argue that there is some form of Acis mismanagement is
9 frankly just jaw-dropping.

10 All of this, Your Honor, is particularly remarkable in
11 light of the fact that these deals are some of the only deals
12 now -- and by deals, I mean, the Acis CLOs -- passed through
13 the investment period. They haven't been reset. Acis has
14 tried to engage in reset discussions, and Your Honor heard
15 about this in the Acis status conference and in the Acis
16 bankruptcy, but I want to make sure it's on the record here:
17 Acis tried to engage in reset discussions with HCLOF -- again,
18 the entity in which HarbourVest, et al. have the investments
19 -- but they've been rebuffed, and in fact have been sued by
20 HCLOF's investor once removed, CLO Holdco, and then ultimately
21 the DAF (phonetic), and been named in all the scorched-earth
22 litigation that HCLOF has brought against Acis and Mr. Terry
23 in this Court and all around the world.

24 So, this allegation that there is some form of
25 mismanagement and that there are claims that need to be

1 reserved, again, I think are angels on the heads of pins.

2 Nevertheless, I think, to the extent it makes somebody
3 feel better to include that language in there, I think
4 HarbourVest's rights -- and I'll be specific to HarbourVest
5 here, since they're the party raising the issue -- to the
6 extent that they are concerned that the release somehow
7 impacts them, to the extent that they flow through HCLOF, I
8 think that they're already covered. But if you want some
9 belt-and-suspenders language that they're not included either,
10 that their rights that flow through HCLOF are also excluded
11 from release, then I suppose that's okay.

12 THE COURT: All right. So, we got the agreement of
13 Acis that, for belts and suspenders, they are agreeable to
14 language in any order approving this settlement, if there
15 should be one, they're agreeable to clarification that
16 HarbourVest claims are not released pursuant to this
17 settlement.

18 So, Mr. Morris, back to you.

19 Mr. Seery, you all would be good with that extra language?

20 MR. MORRIS: Yes, Your Honor.

21 THE COURT: All right. So, with that assurance, Ms.
22 -- I'm sorry, Ms. Weisgerber, you are withdrawing the
23 HarbourVest objection. Is that correct?

24 MS. WEISGERBER: I just wanted to address briefly the
25 other issue regarding the transfer of Highland HCF Advisor and

1 confirm, so it will not go forward, whether it will either be
2 carved out of the settlement agreement or whether the Court
3 will not be approving that transfer as part of the settlement
4 order. Again, just confirm that it's been excepted, it's not
5 going forward, but we just want to be -- it to be confirmed
6 that, with our concerns if later the Debtors got subsequent
7 legal advice and attempted to engage in a transfer. I think,
8 again, we always say belts and suspenders, Your Honor, but,
9 you know, my client has a history here that we'd like to be
10 certain about what we're getting when dealing with all the
11 parties here.

12 THE COURT: Well, Mr. Morris, --

13 MR. MORRIS: Your Honor?

14 THE COURT: -- we heard you say that you didn't get
15 the legal advice you needed and so you aren't going to be
16 transferring direct or indirect interests in HHCF pursuant to
17 the settlement agreement. Is there something you can add to
18 -- I don't know. This is it. There's --

19 MR. MORRIS: Your Honor?

20 THE COURT: Go ahead.

21 MR. MORRIS: If you want to put it in an order,
22 that's fine, but I don't see any reason to go and tinker over
23 language in the settlement agreement. If Your Honor, you'll
24 make a finding based on Mr. Seery's testimony that the Debtor
25 has received advice, and based on that advice, the asset will

1 not be transferred. And that'll be part of the order, it
2 seems to me. We don't need to do this.

3 THE COURT: All right. So, Ms. Patel, you agree?
4 It's not happening?

5 MS. PATEL: That's -- that is correct, Your Honor.
6 We understand that the Debtor attempted to and has otherwise
7 complied with the terms of the settlement agreement. They had
8 -- they did not get that opinion from nationally-recognized
9 counsel. And Acis understands where that ended up.

10 THE COURT: Okay.

11 MS. PATEL: So, no. No problem.

12 THE COURT: All right. So there, there's your
13 answer, Ms. Weisgerber, on both of your points.

14 So I'll move on, I guess, to Highland CLO Funding now.
15 Are you in a position to say if your objections are resolved
16 by these announcements? Ms. Matsumura, are you there?

17 MS. MATSUMURA: Your Honor, my colleague, Mr.
18 Maloney, had joined the call, but perhaps he's having
19 technical difficulties.

20 Our -- based on what's been said here, our reservation or
21 rights has been resolved.

22 Of course, the other issue that we had that I don't think
23 Mr. Morris addressed was the business of the appeal. I don't
24 think we need anything else said on that. We just wanted to
25 note for the record that we don't consent to dismissing our

1 portion of that appeal.

2 THE COURT: Okay. Well, let's turn, then, to Mr.
3 Kane, CLO Holdco. Have you heard what you needed to hear to
4 get comfortable?

5 MR. KANE: Yes, Your Honor. John Kane for CLO
6 Holdco. The discussion about the satisfaction of our concerns
7 on Section 1(c) of the settlement agreement has resolved our
8 concerns.

9 THE COURT: Okay. Very good.

10 All right. So we're down, I guess, to Mr. Dondero and Mr.
11 Daugherty. All right. Mr. Morris, did you want to make
12 anything further as far as an opening statement, or call your
13 witness?

14 MR. MORRIS: Yes. You know what, I'm happy to call
15 the witness, and then I'll reserve my time for closing
16 argument, if Your Honor (garbled).

17 MR. DEMO: Mr. Morris, this is Greg Demo. Just as
18 one more brief item before we do that, certain of the
19 employees are also being released by this agreement. We've
20 had conversations with their counsel. They didn't file a
21 formal reservation, but they asked a few clarifying questions,
22 which I believe that we and Ms. Patel are in agreement with.
23 And so those employees who are being released by the
24 settlement with Acis, we did want to clarify on the record
25 that the release does not affect any of their rights against

1 -- to assert a claim against the estate. Some of these
2 employees have filed proofs of claim. Others may have
3 administrative claims. And the settlement does not affect
4 their rights under those claims.

5 The settlement also does not affect their rights under the
6 -- to vote for or against the plan.

7 And then, finally, if any of those employees are
8 subpoenaed or subject to discovery requests, it does not
9 affect their right to truthfully respond to those.

10 THE COURT: All right. Anyone disagree with that
11 announcement? (No response.) All right.

12 MS. PATEL: Acis confirms, confirms the agreement,
13 Your Honor.

14 THE COURT: Okay. Thank you.

15 All right. So I promised people you will get ample time
16 to do closing arguments, but I think, given how late in the
17 day it is, we need to just go to the evidence. And so, Mr.
18 Morris, you call Mr. Seery?

19 MR. MORRIS: Yes, Your Honor. The Debtor calls James
20 Seery.

21 THE COURT: All right. Mr. Seery, are you there?
22 Can you hear me?

23 MR. SEERY: I am, Your Honor. Can you hear me?

24 THE COURT: We can hear you. We can't see you yet,
25 but if you'll say "Testing 1, 2" it'll pick you up.

Seery - Direct

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1 MR. SEERY: Testing 1, 2.

2 THE COURT: All right. There you are. All right.

3 Well, I've sworn you in once today. Do you understand you're
4 still under oath?

5 MR. SEERY: I do, Your Honor.

6 THE COURT: All right. You may proceed.

7 MR. MORRIS: All right. Thank you very much, Your
8 Honor.

9 I don't know if anybody else has had the issue, but there
10 were a couple of times when the screen froze for a second or
11 three. So we'll just see how it goes.

12 THE COURT: Okay.

13 JAMES P. SEERY, DEBTOR'S WITNESS, PREVIOUSLY SWORN

14 DIRECT EXAMINATION

15 BY MR. MORRIS:

16 Q Good afternoon, Mr. Seery. We're here on the 9019 motion
17 for Acis. Can you describe for the Court generally the
18 diligence that you and the independent board members did to
19 educate yourself about the claims that the Debtor had against
20 Acis and the claims that Acis had against the Debtor?

21 A Yes. Recognizing that we're making a separate record, I
22 will -- I'll do all the points, but I'll try to do them
23 slightly more quickly, since it's very similar to what I
24 testified with respect to Redeemer.

25 When we were appointed as directors, we initially did a

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1 lot of work around various claimants and what claims they had,
2 particularly those who were on the Creditors' Committee. And
3 that necessarily led us to dig into the Acis bankruptcy case
4 and the issues surrounding both Mr. Terry and Acis, of which
5 the Court is very familiar.

6 Starting on the very first day of the case, when -- first
7 day that we were appointed, we actually met with Mr. Terry and
8 his counsel, discussed the issues that they raised with
9 respect to their claims and what they thought were substantial
10 claims coming out of the Acis bankruptcy against the Highland
11 estate.

12 After that, we engaged our counsel to research the claims,
13 to do significant work around the legal issues.

14 Early on, as those -- as that work was going on, Mr. Nelms
15 and I ended up going to a meeting with Mr. Terry and Ms.
16 Patel, extensive debriefing on their claims and challenging a
17 number of the positions that they had. We took that back and
18 did extensive work with the team, which is the team at both
19 Highland, in terms of the underlying factual issues related to
20 the Acis case, as well as the legal issues both from Acis and
21 as were articulated by Ms. Patel and Mr. Terry.

22 When they filed their claim, we dug into that completely
23 and analyzed it both with respect to the legal and factual
24 issues, and had numerous meetings with the board and with
25 counsel with respect to each and every section of the

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1 complaint, as well as the -- how that would dovetail into our
2 case.

3 Q Did you have an opportunity to review any of the Court's
4 decisions in the Acis bankruptcy case?

5 A Yes, we did. We -- I did, and I know that each Mr. Nelms
6 and Mr. Dubel did as well.

7 There were numerous decisions, including the confirmation
8 of orders and the (inaudible) that started, you know, back in
9 the arbitration decision, which we also all read, and then
10 right into the case, into the plan of reorganization, and the
11 specifics with respect to the various transfers that were
12 articulated or laid out in the Acis complaint.

13 Q Did you receive advice and review yourself the advice on
14 issues, on legal issues such as those arising out of the
15 *Mirant* decision, and did you read that case?

16 A I read -- I read *Mirant*. I read all of the cases cited in
17 *Mirant*. I think I read most of its progeny, although it's got
18 a lot of different avenues that courts have taken. I was
19 familiar with the case as an investor because we invested in
20 the *Mirant* debt back in -- when *Mirant* had filed, and so I was
21 familiar and aware of it.

22 I think the issues with respect to *Mirant* are some of the
23 things that I was already familiar with, but we dug in again,
24 and I certainly reread the cases.

25 Q And did the board request and did (inaudible) extensive

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1 analyses, written memorandum covering the issues surrounding
2 the Acis claims?

3 A Like the Redeemer case, the Redeemer issues, we requested
4 memoranda from the Debtor's counsel. Debtor's counsel did
5 extensive work on the issues, both with respect to the Acis
6 case as well as the complaint coming out of the case. We had
7 extensive meetings regarding that memoranda, and then sent
8 counsel back to work harder and to come back, challenging
9 their assumptions and some of their conclusions. So it was --
10 it was an aggressive effort by the team.

11 In addition, we incorporated the Highland team because
12 they had the factual underpinnings. We had our own analysis,
13 but we wanted to see if there was something we were missing to
14 really challenge some of the assumptions that we were making
15 with respect to the claims.

16 Q Thank you.

17 MR. MORRIS: Your Honor, a lot of the factual
18 background is really contained in the Court's own rulings from
19 the Acis case, so we're not going to spend any time on that.
20 I would ask the Court to take judicial notice of its own
21 decisions, including the decisions not of this Court but of
22 the District Court on appeal with respect to the matters that
23 were handled in the Acis bankruptcy.

24 THE COURT: Okay. I'll do that.

25 MR. MORRIS: Is that --

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1 THE COURT: I'll do that.

2 MR. MORRIS: Okay. Thank you.

3 BY MR. MORRIS:

4 Q Mr. Seery, during the course of your diligence, did you
5 learn that Acis and the Debtor and related parties were
6 litigating in different forums?

7 A It didn't -- yeah, the answer is yes. We understood that.
8 We also, you know, received copies of litigation, and even
9 from related-party litigation, from my lawyer, Ms. Patel, the
10 lawyer for Mr. Terry, with respect to various litigations,
11 including the Guernsey litigation and litigation initiated in
12 New York. Obviously, the underlying pleadings from the
13 bankruptcy adversary proceeding in Acis that became the basis
14 of the proof of claim in this case.

15 Q And did you learn that there were also proceedings that
16 were pending, or frankly, that were commenced after you were
17 appointed, in the Texas state court system related to certain
18 of Highland's employees?

19 A Yes, and those, those we learned from the employees.
20 Basically, I think coming out of the Acis case and the
21 positions that Mr. Terry had, litigation was initiated against
22 certain employees that we thought was pretty aggressive
23 litigation, frankly. And it was certainly disturbing, even if
24 -- even if one is indemnified as an employee and there is some
25 insurance, it's unsettling to be sued. So it's certainly sent

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1 a ripple through the organization.

2 Q And under the proposed settlement that the Debtor has
3 negotiated with Acis and (garbled), is the litigation that
4 you've just described going to end, at least for the Debtor,
5 the employees that signed the releases, and the affiliates
6 that are specifically identified in the release?

7 A Yes. As a management team and a board of directors, but
8 also as a CEO, it's critical to us to try to get as much of
9 this litigation resolved as possible.

10 As the Court is aware, this is some other litigation
11 that's gone on for a really long time. It's multi-front. It
12 involves multiple parties. It has collateral damage like the
13 employees. And we wanted to try to resolve all of that
14 litigation, to the extent that we could. We can't bind this,
15 as the Court heard earlier some of the -- those who had
16 reservation of rights. We can't bind entities that we don't
17 own or control. And if it's an entity that we manage, it
18 would have to be in the best interests of that entity in order
19 for us to bind that entity.

20 So we wanted it to be as full as possible. We wanted it
21 to be -- if we were going to have a settlement, that it had to
22 be obviously fair and beneficial to the estate. And if we
23 weren't, we were going to take a pretty aggressive litigation
24 posture vis-à-vis the claims.

25 Q All right. Let's shift from -- well, before I shift, is

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1 there anything that you think the Court wants to hear in
2 regard to the diligence that you and the board did to educate
3 yourself about the nature, scope, and value of the Acis
4 claims, Mr. and Mrs. Terry's claims, and the Debtor's claims
5 against Acis?

6 A I think the one additional factor that we have in this
7 claim as opposed to Redeemer -- because Redeemer, although it
8 wasn't completely done before the mediation, and there were
9 certainly hard negotiations after the mediation started, it
10 was outside of mediation. In addition to all the work that we
11 did leading up to our objection to claim, our initial
12 negotiations with Ms. Patel as counsel for Acis, and then Mr.
13 Terry and his own counsel, we also prepared for the mediation.
14 And that was an incredible amount of work, to really examine
15 our own positions, understanding the failings, the weaknesses,
16 and also the strengths, set up what we thought was the most
17 appropriate way to proceed in a mediation there. We hoped to
18 come out with a settlement, if possible, but knowing
19 (inaudible). So we had an additional step with respect to the
20 Acis claim that we didn't have in the Redeemer.

21 Q Well, let's talk about the period prior to the mediation,
22 because obviously you weren't able to, as in your testimony,
23 you weren't able to reach an agreement prior to that. But can
24 you describe for the Court in general terms how the
25 negotiations went, who took part in the negotiations, so the

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1 Court has a good mindset as to the level of arm's length of
2 discussions that took place?

3 A Well, in the pre-mediation negotiations, we, as I said,
4 had had extensive dealings with and among counsel, and the
5 board was kept regularly informed of any of those discussions.
6 In addition, each of the board members -- Mr. Dubel, Mr.
7 Nelms, and myself -- had direct negotiations with Mr. Terry
8 regarding the very specific pieces of his complaint or of the
9 Acis complaint. And those were numerous, and they went on for
10 a considerable amount of time.

11 We initially made settlement offers to Acis and to Mr.
12 Terry, really, around the -- around the crucible of what this
13 -- monetization plan. As I mentioned earlier this morning, we
14 still hoped to have a more grand bargain, and maybe that will
15 get rid of more litigation. As I mentioned further, Mr.
16 Dondero' has made a proposal that I think is -- certainly
17 merits additional work. But we, we set up the plan that is on
18 file that will in front of the Court on Thursday, and it's the
19 alternative plan, but it sets up a crucible that if you are --
20 if we're unable to settle, we're going to litigate claims.
21 And we're still going to be open to settling. I think that --
22 that sort of fostered some early pre-mediation dialogue with
23 Acis and Mr. Terry to set up a possibility that something
24 could get done.

25 Q Is it fair to say that at certain points during these

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1 negotiations frustration set in? Did they -- were they
2 difficult negotiations? Were they -- how would you
3 characterize them?

4 A I would say, to be perfectly fair, and not at all
5 aggrandizing to anybody or flattering, they were arm's length
6 and they were hard negotiations, but they were extremely
7 professional. So I don't think there was, you know, ever any
8 particular difficulty, animus, you know, pre-mediation. The
9 mediation might have gotten a little hot, but at the
10 mediation, we don't want to go into details, but it was very
11 -- it was very professional. It was very arm's-length but it
12 was very professional. It was -- it was slow going.

13 Q I do want to spend just a moment talking about the
14 objection that the Debtor filed to the Acis claim. Do you
15 recall that the Debtor filed an objection to the Acis claim?

16 A Yes.

17 Q Do you recall the arguments? You know, in general, what
18 was the position that the Debtor took with respect to the Acis
19 claim in its objection?

20 A I think our objection had three main components. Number
21 one, and maybe it had good merit, it's legally valid, but some
22 very technical objections. So, we objected to some specific
23 allegations regarding either constructive fraudulent
24 conveyances or fraudulent conveyances, whereas the Acis
25 complaint alleges that the Debtor got them, and some of our

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1 objections were things like no, we didn't get them, a
2 subsidiary got it. And so that would be a technical
3 objection, which I think has merit. You know, as an equitable
4 argument, it could certainly be argued that, well, you control
5 that a hundred percent or 99-1/2 percent, so how do you say
6 you didn't get the benefit? So there were those types of
7 issues.

8 Some of them were, I think, what I would call (inaudible),
9 that they were excellent arguments and they would have been
10 very difficult for Acis and Mr. Terry to ever overcome.

11 The other big overriding objection that we had was that we
12 -- we wanted to get around the *Mirant* holding and really lean
13 on the equities of the case. And so our position was that,
14 while -- while Acis and Mr. Terry had gone through a difficult
15 time, they had a plan of reorganization, and ultimately --
16 ultimately, Mr. Terry would receive the full amount of his
17 original arbitration award, less the amount he paid for the
18 equity, and that that should probably be enough from an
19 equitable perspective to satisfy him, as opposed to having
20 claims against our estate. Our estate.

21 And the third, which ties into this, was an interesting
22 Supreme Court case, and it just -- *Punta* -- it'll come back to
23 me. Which was an argument, I think it's a good argument,
24 hasn't been really applied in bankruptcy often, but that the
25 buyer of an estate doesn't get to get the benefit of claims

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1 because -- against the former owners of the estate or the
2 company because that was factored into the price.

3 I think the challenge with that is, in the bankruptcy
4 context, these claims are often preserved and always pursued.
5 Or often pursued. So there was a challenge to that part of
6 it. But I think we were -- you know, we had solid technical
7 grounds on many of the objections, and we had, I think, a
8 good, creative argument on merit -- on *Mirant* that really was
9 dependent, though, on the perception of the equities of the
10 case.

11 Q Okay. There is a mediation privilege here, so I don't
12 want to divulge anything about the mediation or the end -- the
13 following. Just some very specific questions. Did the -- was
14 -- did the Court enter an order pursuant to which the Debtor,
15 Acis, and others participated in the mediation?

16 A Yes.

17 Q Did the Debtor submit a mediation statement in connection
18 with the mediation?

19 A Yes, an extensive one.

20 Q And was the agreement -- I think it's already been
21 revealed to the Court, but we'll do it again -- was the
22 settlement -- were the settlement terms agreed upon during the
23 mediation?

24 A Yes. And the -- just to be clear and not to reveal the
25 specifics, that part of mediation was very hard-fought. And

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1 then in order to get the actual terms of the deal done, which
2 was exceedingly difficult -- were just good negotiations on
3 each side, I think -- that was done just directly between the
4 parties without the mediators. The actual drafting of the
5 provisions, the structuring of the releases, the limitations
6 on those releases, those were negotiated by the parties
7 without the mediators. The product -- the settlement is a
8 product of the mediation, but those specific pieces were
9 actually done between the parties directly, without the
10 mediators.

11 Q Thank you for the clarification. So, at some point early
12 in the summer, the Debtor files an objection, pursuant to
13 which it claims it has no liability. Is that fair?

14 A I -- I think that's fair, yeah. I think we -- we believed
15 we had a defense to -- at least some defense to every one of
16 their points.

17 Q And then you come out of the mediation and you have this
18 agreement that we're now asking the Court to approve; is that
19 right?

20 A That's correct.

21 Q Okay. Can you just explain to the Court the factors that
22 you and your fellow board members took into account,
23 considered, debated, in deciding that this was a fair and
24 reasonable deal?

25 A Sure. We -- we did believe we had good, meritorious

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1 defenses, and certainly defenses that we put up in good faith,
2 but we had a lot of risk. And so when we went through each
3 count, we thought about the risks that the prior rulings of
4 the Court were in the Acis case and how that might affect our
5 own attempt to deflect our liability.

6 Some of them, we looked at and we thought those were
7 actually, if we could get that settlement as part of it, it
8 would be a pretty straightforward trade. So with respect to
9 an intercompany note that's about \$10 million, it was arguably
10 (inaudible) transferred from -- from Acis, it was transferred
11 -- its claim was it was transferred to Highland. Highland
12 paid on the note. It was actually transferred to an entity
13 that Highland owns and controls. That transfer was done
14 without consideration, was about \$10 million. We would have
15 been liable on that note.

16 We now believe that, for example, that one, we had very
17 little defense on other than a technical defense, and that we
18 would have -- we'd have -- not going to have any liability on
19 it because we effectively owe it to ourself, and now we
20 believe it can be recharacterized or should have been
21 recharacterized as equity in the first instance.

22 So, there are a number of provisions like that. And it's
23 a long complaint. There are a number of allegations that are
24 duplicative, but things like changing the fees. We thought
25 that you could argue that the fee change was a market change

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1 and made sense in the context of what Highland was doing, and
2 I think that's a good, valid defense. The problem with it was
3 the timing. And like a lot of the things in the Acis case,
4 the timing did not help with respect to the equities tilting
5 in favor of Highland. They tilted more towards Acis and Mr.
6 Terry.

7 So when we went through count by count, we put risk
8 probabilities and thought about whether we would be able to
9 prevail or whether there was an opportunity to settle.

10 In addition, you know, just like Redeemer, if this case is
11 going to get resolved, we're going to have to reach
12 settlements. They're not going to be our opportune -- not
13 going to be the best outcome that we would hope. Our best
14 outcome was zero. Our best outcome with Redeemer would have
15 been to deduct everything. But these are settlements that we
16 think are fair and reasonable based upon the risks of -- the
17 likelihood of success, the risks and the rewards of the -- the
18 timing, and the cost.

19 Q And the cost that we're referring to is the cost of
20 litigation; do I have that right?

21 A That's correct.

22 Q Okay.

23 A But by the way, just the cost on these settlements is not
24 just the cost of the two sides' litigation. It's we have a
25 bankruptcy case that, you know, as I've testified before,

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1 Highland's employees do a really good job doing the job they
2 do. The company has a small operating burn. The case is just
3 chewing up the value of the assets. And if everything
4 litigates until the end, we're not going to be in a position
5 to make very good distributions at all.

6 So there's a compelling argument that we should be trying
7 to settle any claims that are meritorious. We have no reason
8 to settle claims that are not meritorious, but claims that are
9 meritorious, we should try to settle if we can.

10 Q Okay. Let's talk for a moment about some of the claims
11 other than the main Acis claims, because there's a few, and I
12 just -- quickly. Claim No. 156 is characterized in our -- as
13 the Terry claim. That's the claim that relates to the taking
14 of the retirement funds. Can you just explain to the Court
15 the board's rationale and their reasoning in deciding to treat
16 the claim in the manner that is being proposed under the
17 settlement?

18 A Yeah, I think this one is again pretty straightforward,
19 that Highland, you know, had arguable justification for the
20 treatment of that account. We went through it pretty closely.
21 It ended up with Mr. Terry and Mrs. Terry receiving no value
22 from the -- the value from his -- from his 401(k). And we
23 thought that this was a claim that was pretty straightforward
24 that should have been settled years ago. And that -- and it's
25 not a large amount of money, but it's, we think, in the

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1 context of the case, the right answer was to simply settle
2 that one for the full value of the claim.

3 Q Thank you. And Claim #155 is defined as the Acis, LP
4 claim. I think that's the claim arising out of the NWCC
5 litigation in New York. Can you just describe briefly for the
6 Court what that -- your understanding of what that claim is
7 and why the Debtor has chosen to enter into the agreement for
8 the settlement of that claim?

9 A Yeah. And this is another one. It's not as personal and
10 difficult in terms of settling it, but it is one that's
11 nettlesome. Highland -- it's a long saga, but Highland had
12 retained a party to assist with some (inaudible) kind of
13 financing. It turned out it didn't either want or need it.
14 It turned over the contract. It owed a small amount of money
15 under the contract. And then it just didn't pay. And that
16 party sued in New York Supreme Court, and then Highland was
17 deleterious. Its counsel just failed to respond.

18 Ultimately, after getting an extension, its counsel
19 responded. Its counsel responded, including with respect to
20 Acis. Unfortunately, Acis was controlled by a trustee, so
21 Acis then never -- never got the proper notices. And the case
22 proceeded to Acis's detriment, and this is the cost of the
23 fees to try to undo that, which ultimately Acis was able to
24 do. It's still, I believe, a defendant in the case, but was
25 able to -- to separate from default-type judgments and risks

1 it had incurred because Highland's counsel had not properly
2 dealt with the case.

3 Ultimately, the case went against Highland. I think it's
4 one that should not have gone against it. And what was a very
5 small amount that was owed is now a few hundred grand.

6 Q Hmm. And then the last piece of the puzzle, I believe, is
7 the satisfaction of the fees incurred in connection with
8 Guernsey. Can you describe for the Court your understanding
9 of what that provision of the settlement pertains to and why
10 the Debtor believes it's in the best interests of creditors to
11 do that?

12 A Yes. The Guernsey litigation was brought by HCLOF in
13 Guernsey. The Debtor was not part of it. However, the Debtor
14 has an advisory agreement through HCF that we talked about
15 earlier. And Acis and Mr. Terry took the view that we had the
16 ability to stop that litigation. We actually went out and had
17 outside counsel tell us we did not have that ability. And
18 after doing -- doing work on it. But it was one of those
19 issues, again, a nettlesome one, where HCLOF lost in Guernsey.
20 Guernsey is a loser-pays jurisdiction. And this is one of
21 those items that I suspect that, because of our case as a
22 manager, it was something that was really important to Mr.
23 Terry. And for the amount of the settlement, in order to get
24 the overall deal done, we agreed that we would compromise that
25 amount, his statutory amount, and then he could litigate for

1 his full fees.

2 So, rather than have either HCLOF or Acis go and spend
3 additional dollars to litigate in Guernsey to determine the
4 fees -- which we don't really know how that would have come
5 out, but there's at least a minimum, the statutory amount --
6 we compromised it.

7 Q Last question, as I did with the earlier settlement:
8 We've touched, I think, on all of the factors at play under a
9 9019 analysis, but can you just explain to the Court in your
10 own words why you and the Debtor and the independent board
11 members believe that this settlement is in the paramount
12 interests of creditors?

13 A Well, we, again, we went through a rigorous examination of
14 the risks and rewards of the litigation. The timing, the
15 costs overall to the estate, and the claims that Acis and Mr.
16 Terry had. The challenge that we had is that, where we are in
17 the case, it's not just creditors that are at -- potentially
18 on the other side, the creditors of Highland on the other
19 side. And that means that there's a risk that a finder of
20 fact, looking at the totality here, based upon *Mirant* and the
21 subsequent cases, when you balance the equities, they may not
22 always find that they tilt in Highland's favor. So the risks
23 that they would tilt against us was material, and that left us
24 open to potentially a significant award.

25 In addition, as I mentioned, of the total amount, we think

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1 that the note was one that we actually owe, and we owe it to
2 somebody, but now we owe it to ourselves. So of the total
3 settlement amount, \$10 million really is self-funding because
4 we're not going to have to pay that obligation.

5 So our view is that, overall, this is a -- like the
6 Redeemer. It's a fair total settlement that we can reach with
7 Acis and Mr. Terry. We can wrap up a number of litigations,
8 including litigations against the employees, and that is --
9 even though I think it's got good, meritorious defenses,
10 having that over one settlement, harder to bring this case to
11 a close, and we'd be -- we'd be relying every day on those
12 very employees. And I can tell you for certain that it was
13 important to them to eliminate that risk from their day-to-day
14 lives.

15 Q You know, I apologize, there was one other question I
16 wanted to ask with respect to the probability of success on
17 the merits. Did you and the independent board take into
18 account the credibility findings that this Court made in prior
19 decisions and the equities that the Court might interpret
20 based on the Court's prior findings in assessing the
21 likelihood of success on the merits?

22 A Yes. And the risk that we saw, frankly, is that if we
23 were just dealing in the pure world of constructive fraudulent
24 conveyance and we were dealing in a pure world where equities
25 were balanced and didn't tilt against us, then we would be

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1 more likely to push the litigation angle of it. I think this
2 case still should settle, but it would give us more likelihood
3 that we would have a probability of winning.

4 With the prior decisions, it puts a significant amount of
5 risk on the *Mirant* equities argument. And once we -- if we
6 were to lose that, or if it was to be found that these were
7 actual fraudulent conveyances, and based upon some of the
8 prior testimony, one might assess that there were some risks
9 there, that certainly leads us to believe that this is a fair
10 settlement.

11 MR. MORRIS: Your Honor, I have no further questions
12 and no further witnesses. But I would like at this time to
13 move for the introduction -- for the admission into evidence
14 of certain exhibits.

15 THE COURT: All right. Point me to where those
16 appear on the docket again.

17 MR. MORRIS: Yeah. I really apologize. That's the
18 one docket number I don't have. I think we filed it on Friday
19 evening, if that helps.

20 THE COURT: Okay. Just a moment. Okay. Let me back
21 up. Your witness and exhibit list is at Docket 1202.

22 MR. MORRIS: Okay.

23 THE COURT: And I'm sorry, you're wanting to move
24 into evidence all of the items on here, or no?

25 MR. MORRIS: The four items, the first four items on

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1 there.

2 THE COURT: All right. So the three proofs of claim
3 at issue and then the declaration of Mr. Demo that I think was
4 just attaching the settlement agreement and related items,
5 correct?

6 MR. MORRIS: That's exactly right, Your Honor. Mr.
7 Demo's declaration can be found at Docket No. 1088.

8 THE COURT: All right.

9 MR. MORRIS: And there was just the two exhibits, the
10 settlement agreement and the release. And the Debtor
11 respectfully moves for the admission into evidence of those
12 documents.

13 THE COURT: All right. Any objection? (No
14 response.) All right. Those four exhibits are admitted.
15 Again, they are found at Docket Entry 1202.

16 (Debtor's Exhibits are received into evidence.)

17 THE COURT: All right. So you have the passed the
18 witness. First, any friendly examination that is not
19 duplicative? Ms. Patel, anything from you?

20 MS. PATEL: No, Your Honor. We'd reserve anything
21 for redirect, if at all.

22 THE COURT: All right. So I'll turn now to counsel,
23 I guess, for Mr. Dondero first. Any cross-examination?

24 MR. WILSON: Yes, Your Honor. This is John Wilson
25 for Mr. Dondero.

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1 THE COURT: Mr. Wilson, you have cross?

2 MR. WILSON: Yes, ma'am.

3 THE COURT: All right. Go ahead.

4 CROSS-EXAMINATION

5 BY MR. WILSON:

6 Q Good afternoon, Mr. Seery. Can you hear me?

7 A I can, yes.

8 Q All right. And we met over Zoom on Saturday, but again,
9 I'm John Wilson and I represent James Dondero. I just wanted
10 to ask you a few questions. And we -- Mr. Dondero and I don't
11 want to re-plow a lot of ground, but you described earlier
12 about how, when you were appointed to the independent board,
13 you began meeting with members of the Official Committee of
14 Unsecured Creditors and then to try to determine what their
15 claims were and began to undertake an analysis of those.
16 Would that be fair?

17 A Yes.

18 Q And in the process of doing so, the board instructed the
19 Pachulski firm to undertake specific legal analysis of the
20 Acis claims and all the causes of action asserted therein; is
21 that correct?

22 A That's correct.

23 Q And in fact, the board worked closely with counsel to
24 analyze the Acis proof of claim, correct?

25 A I -- you broke up. Did we work closely?

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1 Q Yes.

2 A Yes, we did.

3 Q All right. And you described that you requested memoranda
4 and conducted meetings with counsel, instructed counsel to go
5 back and work harder. Is that a fair characterization of what
6 you testified to a minute ago?

7 A I think that is part of it, yes.

8 Q Okay. So, through this process, when you were analyzing
9 the Acis proof of claim and becoming familiar with the
10 particular claims asserted therein, you became aware that this
11 was the subject of an adversary proceeding in the Acis
12 bankruptcy, correct?

13 A Yes.

14 Q And in fact, that there is -- the Acis proof of claim
15 attaches the second amended claim from the Acis versus
16 Highland adversary proceeding; is that correct?

17 A You broke up at the end, but I think the answer is yes, if
18 it was that it attaches the second amended complaint. I
19 believe that's correct.

20 Q Right. And that Acis v. Highland adversary proceeding had
21 been the subject of litigation at the time the Highland
22 bankruptcy was filed, right?

23 A I believe yes, it had commenced.

24 Q And that litigation had been proceeding for actually many
25 months, correct?

1 A Yeah. The Acis case and the adversary had been initiated
2 well before our filing.

3 Q Right. And you became aware through your analysis and
4 attempts to discover information about this claim that
5 discovery was being conducted in that adversary proceeding;
6 that's correct?

7 A I don't know that I ever saw any of the specifics of
8 discovery. I assume there was discovery.

9 Q Well, and I think you testified on Saturday that you were
10 aware that discovery was being conducted in the adversary
11 proceeding.

12 A I mean, I'm sure -- I'm sure I knew that there was
13 discovery in the adversary, but I don't -- I don't have a
14 specific recollection of what the discovery was. That's not
15 something --

16 Q Right. And my question wasn't whether you reviewed all
17 the discovery. It was just that you were aware that it was
18 being conducted, correct?

19 A I was aware that it had. I don't know that it was current
20 at the time that we got involved.

21 Q Now, I think that -- I think you've offered testimony that
22 you worked with the Pachulski firm in developing the written
23 objection that was ultimately filed to the Acis proof of
24 claim?

25 A That's correct.

1 Q And before that objection was filed, you and the other
2 members of the board reviewed it, right?

3 A Yes.

4 Q And the other members -- you and the other members of the
5 board took the position or agreed with the position taken in
6 the written objection, correct?

7 A Yes.

8 Q And the board approved the written objection before it was
9 filed?

10 A That's correct.

11 Q And so ultimately the Pachulski firm filed Highland's
12 objection to Acis' proof of claim on June 23rd, 2020?

13 A I believe that's correct. I don't know the date off the
14 top of my head.

15 Q And would you agree with me that the Highland objection
16 took a pretty aggressive stance with regard to the Acis proof
17 of claim?

18 A I agree, yes.

19 Q And in fact, the Highland objection took the position that
20 the Acis claim should be disallowed in its entirety; is that
21 right?

22 A That's correct.

23 Q I've got Bryan Assink from my firm here with me, and he's,
24 excuse me, going to try to share a document on -- on the
25 webcam. What we're going to look at is Exhibit G, which is

1 actually -- it's Dondero Exhibit G, which is actually the
2 Highland objection to the Acis proof of claim. Can you see
3 that on your screen?

4 A I can, yes.

5 Q All right. And if you look at the top of that, the very
6 top where it has the file stamp that shows that -- it shows
7 that it was indeed filed on 6/23/20, and it's Docker No. 771.
8 Can you go to Page 3 now? And I don't want to work through
9 the entire 65 pages of this document, but I'd like to kind of
10 work through some of the -- some of the statements made in the
11 preliminary statement that I think are intended as a --
12 somewhat of a summary of the positions taken in the document.

13 But if you look on Page -- if you look on Page 3, about
14 halfway down, the beginning of that Paragraph No. 2, where it
15 says, (inaudible) Terry keeps a \$75 million windfall, which
16 would come not at Dondero's expense but from the pockets of
17 the Debtor's innocent creditors, including unsecured trade
18 creditors, the Redeemer Committee, the Highland Crusader Fund,
19 with an arbitration award of \$191,824,557, and UBS Securities
20 (inaudible).

21 And so Highland took the position on June 23rd that Mr.
22 Terry was seeking a \$75 million windfall, correct?

23 A That's correct.

24 Q And they took the position that that windfall was not
25 going to come at Mr. Dondero's expense but instead at the

1 expense of Debtor's innocent creditors, correct?

2 A That's what we said, yes.

3 MR. WILSON: All right. Can you go to Page --

4 BY MR. WILSON:

5 Q Now, this is the next page of the document, Page 4, where
6 it says that James Dondero and Mark Okada were Acis's sole
7 owners, and it's hornbook law that sole owners do not owe
8 fiduciary duties to their company.

9 MR. WILSON: Can we go to the top of Page 5?

10 (Pause.)

11 MR. WILSON: Sorry. Having technical difficulties.

12 BY MR. WILSON:

13 Q And starting at the bottom of that paragraph, it says that
14 Delaware law does not permit creditors of a limited
15 partnership to sue third parties for breach of fiduciary
16 duties, nor does it permit a trustee to sue on their behalf.
17 These claims are not and cannot as a matter of law be brought
18 for the benefit of Acis's foreign creditors.

19 And so on June 23rd, 2020, Highland was thinking that the
20 breach of the -- the breach of fiduciary duty claims could not
21 be brought as valid claims in the Highland bankruptcy,
22 correct?

23 A Yes.

24 MR. WILSON: And then go to the bottom of Paragraph

25 B.

1 BY MR. WILSON:

2 Q It says -- the last sentence of Paragraph B says that even
3 if the equities are applied as this Court once held they may,
4 there is no equity in permitting a new owner to sue persons
5 for conspiring with the old owner in order to parlay a \$1
6 million investment into \$75 million, at the expense of this
7 Debtor's creditors.

8 And once again, you're taking the -- I'm sorry -- Highland
9 is taking the position that there is no equity in Acis's claim
10 because they're parlaying a \$1 million investment into \$75
11 million at the expense of Debtor's creditors. And that was
12 Highland's position on June 23rd, 2020, correct?

13 A That's correct.

14 MR. WILSON: Go to Page -- actually, just go down a
15 little bit.

16 BY MR. WILSON:

17 Q And then with respect to the fraudulent transfer claims,
18 Highland took the position that, third, the fraudulent
19 transfer claims fail and may be summarily resolved because the
20 Debtor did not receive the benefit of the alleged fraudulent
21 transfers since, with one exception, it was not the transferee
22 of the transferred rights.

23 So Highland had taken the position on June 23rd, 2020 that
24 the fraudulent transfer claims must be fail and can be
25 summarily resolved, correct?

1 A That's correct.

2 MR. WILSON: All right. Go to D on the next page.

3 BY MR. WILSON:

4 Q And here in Paragraph D, it says there is nothing left of
5 the former Acis estate. Creditors were paid, Old Equity was
6 cancelled, and New Equity is held by a purchaser who paid \$1
7 million, no different than if he had done so at an auction.
8 There is no estate to benefit.

9 So, and then it continues on, authorities before and after
10 *Mirant* hold that the (inaudible) recovery should be limited
11 based on equitable considerations. Unlike *Mirant*, in this
12 Court's *Texas Rangers* decision, this is not a case in which
13 the recovery will enable the debtor to satisfy outstanding
14 claims, obligations, or one in which creditors are forced to
15 take equity instead of cash and are depending on its value for
16 recovery on their claims. There is no estate and no equity to
17 support Mr. Terry's windfall.

18 So, Highland, on June 23rd, 2020, was taking the position
19 that there was no estate to benefit because all the creditors
20 have been paid and Old Equity was transferred and New Equity
21 was held by Josh Terry; is that correct?

22 A That's correct.

23 Q In Paragraph E, that's where Highland discusses how the
24 (inaudible) Doctrine holds that the purchase of controlling
25 equity in a company may not be used to control through

1 corporate machinery to turn around and assert claims against
2 the prior owners if the claims arose prior to the date when
3 the purchaser took control.

4 So Highland was saying on June 23rd, 2020 that the
5 (inaudible) Doctrine prohibited many of Terry's claims? Or
6 Acis's claims, I'm sorry. Is that correct?

7 A That's correct.

8 Q All right. Now, on Paragraph F. Acis (inaudible) seeking
9 \$7 million in so-called overpayments have no legal basis and
10 should be summarily disallowed.

11 So Highland took the position on June 23rd, 2020 that the
12 overpayment claims can be summarily disposed and had no legal
13 basis, correct?

14 A That's correct, sir.

15 Q And 11G says that Acis's civil conspiracy claim also fails
16 as a matter of law because that claim is not recognized. So
17 now -- H. Acis's tortious interference claim fails as a
18 matter of law because it does not apply to at-will contracts.

19 I, Acis's breach of contract claim, like its claim for breach
20 of fiduciary duty, rests on the fallacy that Acis had legal
21 interests that were distinct from those of its sole owners.

22 J, alter ego liability was inadequately pled (inaudible)
23 claim, and moreover, is unavailable on the alleged grounds.

24 MR. WILSON: The top of the next page.

25 BY MR. WILSON:

1 Q And then K, you talk about Debtor's defenses that are
2 meritorious but may not be able to be decided summarily.

3 So, on these 55 pages of this claim, there's a lot of
4 legal argument and briefing over the objections, but I think
5 you would have to agree with me that Highland asserted the
6 position that every single one of the 34 Acis claims could be
7 resolved by summary disposition, correct?

8 A I don't -- I don't think that's correct. I think we said
9 that numerous of the claims could be dealt with by summary
10 disposition, and certain other ones we had meritorious
11 defenses that would have to be litigated because they were
12 fact-based.

13 Q But in any event, you would agree with me that the bulk of
14 this claim was argued could be disposed by summary
15 disposition, correct?

16 A That's correct.

17 MR. WILSON: All right. Now --

18 BY MR. WILSON:

19 Q And I think you told me on Saturday that, with respect to
20 your -- Highland's claim that there's no estate to benefit in
21 Acis, that if there was an estate it would be Josh Terry; is
22 that correct?

23 A I don't believe that's correct, no.

24 Q You don't believe that that's correct or you don't believe
25 that you testified to that?

1 A I'd probably say both.

2 Q Well, maybe I can refresh your recollection as to that.

3 MR. WILSON: Page --

4 BY MR. WILSON:

5 Q We've produced the infamous video. I'm going to try to
6 pull up Page 38 of the deposition that you gave on October 17,
7 2020.

8 MR. WILSON: It's at the top.

9 BY MR. WILSON:

10 Q So starting at Line 3, where it says, I don't think that
11 will be necessary, but in practical terms it's Acis's estate,
12 now just Terry. Mr. Morris asserted an objection. And the
13 answer was, Yeah, I think we would certainly from a litigation
14 perspective try to cabin it that way. And there are a bunch
15 of technical reasons for that, but it's certainly a bit
16 broader than that. There's not a big creditor body, but there
17 are still a few creditors. He is, in my understanding, the
18 only shareholder -- there are, you know, in fact, customers,
19 albeit the management of the investment outsourced some of the
20 funds, so we would -- you know, we tried and attempted to
21 draft it in a way that cabined it to a couple different
22 creditors that could be paid off in --

23 MR. MORRIS: And Your Honor? Your Honor, if I may,
24 just in the future I would respectfully request that if my
25 witness or my client is going to be cross-examined with

1 deposition testimony, and I've lodged an objection
2 specifically to preserve the objection, that the Court rule on
3 the objection before the answer is read into the record.

4 Thank you.

5 THE COURT: All right. So, I'm sorry, you had --

6 MR. MORRIS: Yeah.

7 THE COURT: Let me be clear if you have a pending
8 objection at the moment.

9 MR. MORRIS: If it's not -- if the Court doesn't deem
10 it too late, since it's already been read into the record,
11 yes, I would just ask the Court to rule on the objection that
12 I made during the deposition. That's why we do that.

13 THE COURT: Okay. Well, I got lost, I suppose, on
14 what the objection was that was lodged during the deposition.

15 MR. MORRIS: I objected to the form of the question
16 to the extent it calls for a legal conclusion.

17 THE COURT: All right.

18 MR. WILSON: And Your Honor, I'm --

19 MR. MORRIS: I just want it to be clear that if the
20 Court sustains the objection, that whatever Mr. Seery
21 testified to is not going to be somehow binding as some kind
22 of legal conclusion. That's all.

23 THE COURT: All right.

24 MR. WILSON: Your Honor, my response to that --

25 THE COURT: Response, Mr. Wilson?

1 MR. WILSON: Yes. My response to that objection will
2 be that I did not ask him for a legal conclusion. I asked him
3 a question in practical terms, if Acis's estate now is just
4 Terry.

5 THE COURT: Okay. I overrule the objection.

6 MR. MORRIS: All right. Thank you, Your Honor.

7 THE WITNESS: So I think I answered it correctly.
8 You asked me what I thought, and I said, from a -- this answer
9 is from a litigation perspective. That's the position we
10 took, yes. I think a moment ago you asked me what I thought
11 now from a factual perspective. Most of the issues are laid
12 out in my answer.

13 BY MR. WILSON:

14 Q Turn with me to -- on Page 9. I'm now going to direct
15 your attention to Paragraph 4 of the Highland objection on
16 Page 9, which says, The rights of creditors to be paid were
17 the legal basis of the Acis plan injunction, which is why the
18 injunction terminates once those creditors are paid in full.
19 Mr. Terry elected to acquire new equity for \$1 million. He is
20 not entitled to receive another \$75 million by claiming that
21 Acis was damaged by those transfers, much less from the
22 pockets of the Debtor's unpaid creditors. To impose on the
23 former partners and third parties such as the Debtor a duty to
24 restore \$75 million to the former business, not to pay its
25 creditors but for the sole benefit of successor owner who

1 bought the diminished entity for \$1 million, would be a
2 legally groundbreaking windfall, to say the least. The Acis
3 claim can and should summarily be disallowed in its entirety
4 on the record before the Court.

5 And so does that paragraph to you pretty much sum up
6 Highland's position on the Acis claim as of June 23rd, 2020?

7 A Yes. That's the position we took.

8 Q And the board believed in good faith that these arguments
9 it was making were meritorious, correct?

10 A That's correct.

11 Q And the board had a good faith belief that the legal
12 contentions made in Highland's objection were warranted by
13 existing law, correct?

14 A The legal what?

15 Q The legal contentions were warranted by existing law.

16 A Yes.

17 Q And the board had a good faith belief that the factual
18 contentions in Highland's objection had evidentiary support,
19 correct?

20 A That's correct.

21 Q And so Highland had a good faith belief that Acis's claim
22 could be disposed of, disposed of in its entirety on summary
23 judgment. Correct?

24 A Largely, yes.

25 Q And you agree with me that if claims can be disposed of

1 summarily, that would be a shorter and less expensive legal
2 process than a trial on those issues?

3 A If they are summarily dismissed, that is correct.

4 Q And in fact, an agreement was reached by the parties in
5 this case that Highland and Acis would file motions for
6 summary judgment regarding the Highland objection to the Acis
7 claim by September 16th, 2020, and that those motions would be
8 heard on October 20th, which is today. Do you recall that?

9 MR. MORRIS: Objection, --

10 MR. WILSON: I'm sorry, go ahead.

11 THE WITNESS: That's fine. We don't need to agree.
12 We took a very aggressive position that we wanted to get to
13 court as quickly as we could to put pressure on the Acis side.

14 BY MR. WILSON:

15 Q But my point in asking you these questions is -- so they
16 took the position that there was summary adjudication
17 available for these claims in the -- in the Bankruptcy Court.
18 Is that correct? Would you agree with that?

19 A We were definitely scheduled to have that, yes.

20 Q Okay. Because I read the Debtor's omnibus reply that came
21 in yesterday. And on Page 7, it says there was no indication
22 that summary adjudication is available in this Court. And I
23 just wanted to make that clear, that there was actually an
24 agreed-upon procedure that was approved by the Court. So
25 Highland's initial position was that if Highland paid the Acis

1 claim they were going to give a \$75 million windfall to Terry,
2 correct? And we've just gone through reading a few times in
3 the objection. Can you agree with that?

4 A Yes.

5 Q But I think that you have previously described how there's
6 a counterargument to that windfall from Terry's perspective.

7 Is that right?

8 A There is a counterargument, yes.

9 Q And what would that counterargument be?

10 A In sum, when you look at *Mirant* and the related cases,
11 they do talk about restoring the estate. And so while we --
12 we believed an argument was I think strong that the initial
13 injunction in *Acis* quote/unquote made Mr. Terry whole, there's
14 a strong argument to be made that the estate has claims and
15 that the owner of an estate who buys it through a plan open to
16 everybody is entitled to try to benefit from those claims. So
17 the recovery for the benefit of that enterprise is permitted,
18 and that just happens to be what the law is.

19 Moreover, while we said it was inequitable, there's a
20 counterargument that Mr. Terry would make, which is that he's
21 been -- he had a claim that could have been settled easily and
22 could have been paid off and it wasn't. Instead, there was a
23 long litigation. And it came about because assets from *Acis*
24 were pulled out of *Acis*. It's a pretty straightforward
25 factual recitation that we get from the prior decisions of

1 this Court. And there's a strong equitable argument that Mr.
2 Terry makes that his life has been turned upside down and
3 there's a lot of damage that comes from that. Now, we have,
4 as we lay out, what we thought were meritorious defenses, but
5 they do rely a lot on the equities.

6 Q Right. And we'll get to it now. In your deposition on
7 Saturday, I think you described this with a little more color.

8 (Pause.)

9 BY MR. WILSON:

10 Q On Lines 7 through 13, you were discussing the Highland
11 position related to the windfall, but starting I think and you
12 said equally on the other side, we could say that the man's
13 life was ripped out from him, that his position was taken
14 away, that he got an arbitration award that arguably the
15 Debtor and the Debtor's management at the time stripped away
16 all the assets (inaudible) to try to leave him with no
17 recovery. And then when he sought a recovery, they sought to
18 sue him in every jurisdiction in the world to make sure to
19 ruin the guy's life and put him in a position where, while for
20 some it might seem a windfall, to him it might seem just.

21 MR. WILSON: And skip down toward -- go on to that
22 next answer.

23 BY MR. WILSON:

24 Q Where it says, that it took a bunch of years of his life
25 and destroyed his career is not really our issue.

1 So these are the equities that you were considering when
2 you -- when the board decided to settle this claim, this Acis
3 claim?

4 A Overall. This is my summation. I wouldn't want to
5 engraft it necessarily on Mr. Dubel and Mr. Nelms. But
6 certainly this general position. I'm not quite sure why you
7 read it out. But yes, that's the other side, in a nutshell.

8 MR. MORRIS: Your Honor, this is -- this is John
9 Morris. Mr. Seery made a point, frankly, that I was thinking
10 of, but it is an important point. There's really, in my
11 experience, no need to go to a deposition transcript unless
12 it's being used for impeachment purposes. If Counsel has a
13 question of my witness, I would -- I would respectfully
14 request that he simply ask it.

15 THE COURT: All right.

16 MR. MORRIS: Thank you.

17 THE COURT: Mr. Wilson, what do you have to say about
18 that?

19 MR. WILSON: Yes, Your Honor.

20 THE COURT: I think he's correct. Anything you want
21 to challenge about that point?

22 MR. WILSON: Well, not really, Your Honor. I could
23 -- I could ask the questions, but I just, in that instance, I
24 thought it was easier to get the exact testimony on the
25 record. I don't think it's inadmissible for any purpose. And

1 he's, you know, he's welcome to comment on it if he needs to
2 or put it in context or -- I mean, if there's a (inaudible) or
3 something else, you know, I'll live with that. I was just
4 doing it for ease, instead of having to ask him a bunch of
5 individual pointed questions.

6 THE COURT: Okay. Well, we've got him here, so let's
7 just -- you know, we've got him here so we don't need to use
8 the deposition unless, you know, there's some impeachment
9 purpose.

10 So let me just ask you. You have -- you've been going 27
11 minutes on cross. I really want to break tonight at a point
12 that makes sense, which to me suggests we should finish this
13 witness. How much longer do you feel like you need?

14 MR. WILSON: I believe I'm at least halfway done, if
15 not further along, Your Honor.

16 THE COURT: All right. Well, hmm. I'm going to ask
17 you to just speed it up. I'm going to stop -- well, here's
18 the deal. We have maybe two more witnesses, right? You all
19 have named Professor Rappaport, and Mr. Daugherty is named as
20 a witness. And I said I would come back tomorrow, but I'm
21 trying to respect the fact that Acis's counsel, their lead
22 counsel is not available tomorrow. So add to this
23 complication that, as we have been conducting this hearing
24 this afternoon, four objections to the disclosure statement
25 have been filed that at some point -- that at some I need to

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1 read and a lot of other lawyers in the room need to read. And
2 I'm -- what is our hearing? It's Thursday. Is it 9:30 in the
3 morning Thursday? Yes. My law clerk is saying yes. So we're
4 running --

5 MS. MASCHERIN: I believe that's right.

6 THE COURT: We're running out of available hours
7 here. So, with respect, Mr. Wilson, I'm going to give you 15
8 more minutes. So we're going to pass the witness --

9 MR. KATHMAN: Your Honor, this is --

10 THE COURT: Yes?

11 MR. KATHMAN: Your Honor, this is Jason Kathman. And
12 I don't know if this helps or makes things more difficult, but
13 I think my cross of Mr. Seery is at least probably 20 or 30
14 minutes, and so I'm just telling you now, if the Court's
15 thinking about breaking now, and to give Mr. Wilson another 15
16 minutes, I'm not a five-minute cross-examination. I don't
17 think I'm an hour, but it's certainly more than five minutes.
18 So, again, I say that. I don't know if that helps or hurts,
19 but I wanted to pass that information if it affects the
20 Court's decision-making.

21 THE COURT: Okay. Mr. Wilson, continue. You've got
22 15 minutes to wrap it up.

23 MR. WILSON: Thank you, Your Honor.

24 BY MR. WILSON:

25 Q Now, Mr. Seery, is it true that prior to filing that

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1 Highland objection that we just reviewed that Highland made an
2 offer to settle the Acis claim for \$4 million?

3 A We did. We made an initial settlement offer to Acis for
4 \$4 million plus withdrawing our claims in the Acis case.

5 Q Okay. And around that same time, did Highland make an
6 offer to settle UBS's \$1 billion proof of claim for
7 approximately \$20 million?

8 A I think that's about the right amount, yes.

9 Q Okay. And you believe the Debtor in this case is solvent,
10 correct?

11 A Yeah. I believe, and I think I testified earlier, and
12 also on Saturday, that I believe that we have projections
13 that, if we are able to hit them, we have to improve on them,
14 and we have to keep our costs down, and if we have a claim
15 amount for UBS which we think is zero, and we do believe
16 that's the case, as well as zero for HarbourVest, which I
17 argue is the same, and Mr. Daugherty I believe it's 3.7, that
18 we would be very close to paying claims in full, yes.

19 Q So, based on those assumptions, you believe there'll be
20 room for equity to participate under the currently-filed plan?

21 A It would be -- it would be close, yeah, but there's a
22 potential, certainly. It would be close. But again, to --
23 again, there's -- again, there's -- these are not -- it's not
24 a matter of distributing a sack of cash. These are assets
25 that we have to manage and then sell into the market. And as

1 we had testimony earlier on Cornerstone, these are not big,
2 giant high-grade companies. These are private, smaller
3 companies with issues and risks.

4 Q Okay. And it's your information that the allowed amount
5 of the UBS claims should be zero, right?

6 A Yes.

7 Q And I won't ask you again to give your reasons for that.
8 And can you -- there's been lots of argument and talk about
9 this all day today, but I think it's a pretty simple question.
10 But you would agree with me that, in the Fifth Circuit, and
11 that's based on U.S. Supreme Court precedent, that a
12 bankruptcy court should not approve a settlement unless it's
13 fair and equitable and in the best interest of the estate,
14 correct?

15 A I think that's generally the standard, yes.

16 Q Right. And you believe that, although Highland's 9019
17 motion to approve the Acis settlement doesn't actually use the
18 phrase "fair and equitable," I believe you testified that you
19 believe the Acis settlement is fair and equitable; is that
20 correct?

21 A Yes, I do believe that.

22 Q And can you briefly describe for me why that is that you
23 have that belief?

24 A Yeah. I believe I testified earlier that a lot of our
25 defenses were, you know, technical defenses, or that we have

1 the -- we had some straight legal defenses which we think are
2 very good, and then a lot of them rested on *Mirant* and the
3 equities. And that we felt strongly about the legal defenses.
4 The technicals are more difficult because I think a court of
5 equity could look through them. And the *Mirant* was really a
6 question of the -- of the equities and how they tilt.

7 And so you have to think your way through those based upon
8 the prior experience of this Court and Acis's prior
9 litigation, and there's, frankly, prior rulings talking about
10 certain of the valuations and the transfers. And the risks on
11 those were significant.

12 If we could win on *Mirant* and argue that there is no real
13 estate, I think that would be -- would have been an
14 interesting argument, and in a different circuit we may have
15 had a stronger argument. I think that *Mirant* in particular,
16 which, although I guess not for me to say, but I don't think
17 it's the right law, but it's the law. And so we have to -- we
18 have to adhere to the legal framework that we have, as well as
19 the factual underpinnings of the case, including the history
20 in Acis.

21 And so we think that, in the context of this case,
22 settling this multi-year litigation that involves a myriad of
23 different parties, a myriad of different courts, is a fair and
24 equitable settlement for this estate to try to move it
25 forward.

1 Q And you believe that the equities in this case tilt
2 heavily in favor of Terry and heavily against Highland,
3 correct?

4 A I wouldn't -- I wouldn't -- I wouldn't want to say that
5 directly. I don't think that that's necessarily the case. I
6 think that they tilt -- they tilt in Mr. -- in Acis's favor
7 and Mr. Terry's favor on a lot of the key issues. And I think
8 one could argue that they're heavily -- they heavily tilt on
9 -- you know, I think that there's a lot of -- there are
10 certainly equities in Highland's favor in terms of the
11 Highland team and what they do and how they perform, and the
12 creditors in the Highland estate and their claims against
13 Highland, but there are certainly -- certain of the equities
14 tilt very favorably towards Mr. Terry and Acis.

15 Q And in applying those standards that the Fifth Circuit
16 sets for approving a 9019 motion, do you understand that the
17 Fifth Circuit has instructed courts to consider certain
18 factors such as the probability of success on the litigation?
19 Is that correct?

20 A Yes.

21 Q And did you consider that factor in reaching a settlement
22 with Acis?

23 A We did, yes.

24 Q And we've talked about how Highland maintained the
25 position as of June 23rd, 2020 that the Acis claims should be

1 disallowed in its entirety, correct?

2 A That's correct.

3 Q All right. And the next factor that the Court is supposed
4 to consider is the expected duration and expense of
5 litigation. Did you consider that factor?

6 A We did.

7 Q And we talked about how it was Highland's position on June
8 23rd, 2020 that all of Acis's claims were amenable to summary
9 disposition, which is, as you agree, substantially less
10 expensive and time-consuming than a full trial, correct?

11 A Yes. If you are successful, it's much more efficient,
12 yes.

13 Q And did the board conduct a specific analysis as to the
14 time and expense that the litigation -- of the litigation
15 anticipated to resolve the Acis claim would require?

16 A I'm not sure what you mean by a specific analysis. It was
17 certainly part of our analysis that if we went forward with
18 summary judgment, we felt strongly that we had a real
19 opportunity to prevail on a certain number of the claims.
20 However, if we lost, we were going to be at a significant
21 disadvantage because that would have meant most likely then
22 showing that there were factual issues and most likely would
23 have hinted that there were some equitable issues. And that
24 would have put us in a very difficult position both in
25 litigating those claims and pushing the case forward.

1 Q Did the board come up with a specific number or a range of
2 numbers that it considered?

3 A I don't recall a specific number. I think at the
4 deposition you asked me what I thought it would cost to try
5 these claims. And from probably just one side I could come up
6 with that number. But as I testified before, there's multiple
7 sides here. And the case also continues to burn, from a legal
8 and professional fee perspective, additional overhead as that
9 trial would go on.

10 Q Okay. And even if the Acis settlement is approved, and we
11 know now that the Redeemer settlement is approved, the UBS
12 claim remains outstanding, which will require lengthy
13 litigation, correct?

14 A I disagree with that. The UBS claim does remain
15 outstanding, but we have summary judgment papers in front of
16 the Court, and they're very narrow issues. We think that the
17 vast majority of UBS's claims, which are against foreign
18 subsidiaries with no recourse to the Debtor whatsoever, are
19 going to be disposed of. So we're going to be down to what we
20 think are equally weak or unfortunately factual claims on
21 fraudulent conveyances. And -- but they're minimal dollar
22 amounts.

23 Q And did the board conduct an analysis of how long that
24 litigation is going to take?

25 A A specific analysis to how long a fraudulent conveyance

1 litigation would take? We haven't done a specific one, but
2 we've thought about it. This one's pretty straightforward
3 because it's not going to be real complicated in order to
4 value the assets because the assets that were returned by HFP
5 -- there's a much more difficult process for UBS because they
6 don't have a claim against HFP, which is the transferor. They
7 have a -- they have to get an alter ego first. So it is -- it
8 is -- there's a number of steps. But the defenses and the
9 valuation is very easy because these are assets that were,
10 just prior to the -- in the same year as the fraudulent
11 conveyance, I think, or maybe 14 months after, had been
12 purchased by Multi Strat, which was a firm that had third-
13 party investors as well.

14 Q Okay. And I just want to ask a handful more questions,
15 because I think I'm running out of time. But one of the other
16 factors that the Fifth Circuit looks at is whether the
17 settlement was reached by an arm's-length transaction. And I
18 would ask what you believe arm's-length bargaining means.

19 A What I think arm's-length bargaining means?

20 Q Yes.

21 A I think it's two parties that are on opposite sides, that
22 do not have undue influence on each other, that do not have --
23 there's no collusion. There's no side deals. That they're
24 negotiating fairly and they're negotiating in their own
25 interests. That is the typical definition of arm's length.

1 Q And I believe that Highland has maintained a mediation
2 privilege as to the specific negotiations that were undertaken
3 in this case, but it's your position that this settlement was
4 conducted pursuant to an arm's-length bargaining?

5 A Absolutely. With or without the mediation. We have no --
6 no interests in -- nor does anyone else -- with Acis or with
7 Mr. Terry or his counsel. These were hard-fought. They were
8 multifaceted. They involved a lot of analysis. They did
9 involve the mediators and their -- their leaning on one side
10 or the other. We don't what they said specifically to Acis.
11 I only know what they said to our side. But it was the
12 product of a mediation.

13 But even without the mediation, this was -- this would
14 have been arm's length because it's folks without undue
15 influence on each other and no interests in each other's
16 sides.

17 Q Okay. If this settlement is approved, will it end all the
18 litigation regarding Acis's claims?

19 A Unfortunately, I don't think so. And we had a little bit
20 of a preview of that earlier. And frankly, unfortunately for
21 our cases, is limited by what we can do in our own case. But
22 it will end all litigation with respect to Acis and Mr. Terry
23 and Highland and the entities owned by Highland more than 51
24 percent, or more than 50 -- 50 or more percent, I think it is.
25 Anyone that we directly manage. And all of the employees at

1 Highland. So, in retrospect, it does solve all the
2 litigations related to Highland vis-à-vis Acis, Highland
3 employees, Mr. Terry and Mrs. Terry.

4 Q All right. But you'd agree with me that the substance of
5 many of these claims have been asserted against other parties
6 and they're pending in other places, including an adversary
7 proceeding in the Acis bankruptcy case?

8 A There are some. And to be fair, you know, we considered
9 whether we should try to involve third parties. There's
10 lawsuits against law firms that Acis and Mr. Terry have
11 brought. I don't know who brought each one. There's against
12 individual lawyers. We just -- we can only solve the problems
13 that we have control over and we can solve. I would love to
14 have been more expansive, but we didn't have, you know, the
15 facility or the legal right to do those, and we didn't want to
16 try to bring in more parties than we could or we would never
17 get this done.

18 Q Okay. Is it your position that we need the -- that any
19 two of the three large unsecured creditors who are members of
20 the Creditors' Committee, which you probably know them,
21 referring to Acis, UBS, and Redeemer, that you need the
22 support of two of those three to support the plan?

23 A I would say to do -- to do any kind of grand bargain, we
24 would need at least two of those three. And to have the
25 Committee not object, because it's a four-person Committee, we

1 would need two of four.

2 But I do think that, you know, with respect to the plan
3 that we have, we're going to need probably two of those
4 creditors, at least two of those creditors to support it. And
5 those negotiations are equally hard-fought, and the positions
6 that we're taking, you know, we're -- we feel very confident
7 in and we intend to pursue them.

8 THE COURT: All right.

9 BY MR. WILSON:

10 Q And so was that one of the motives --

11 THE COURT: Last question.

12 BY MR. WILSON:

13 Q -- for settling the Acis claim?

14 THE COURT: Last question, Mr. Wilson. It's been 15
15 minutes.

16 MR. WILSON: Okay. Thank you, Your Honor.

17 THE COURT: Last question.

18 BY MR. WILSON:

19 Q Yes. So my question was: Was that part of your motive
20 for settling with Acis?

21 A Certainly, settling with Acis, settling with everybody,
22 you know, to try to resolve the case, if they're fair
23 settlements and in the best interest of the estate, we would
24 do it. We obviously are not settling with everybody. There
25 are claims that we think are (inaudible) and don't merit real

1 dollars, and we've been unable to settle those claims because
2 of that.

3 But yes, settling -- settling with Acis, settling with,
4 you know, any of the creditors, we think is critical to try
5 and move this case forward. You know, we would love to have
6 everybody settle. As I said, there are some claims we think
7 are worth zero and we would love to settle them at a dollar.
8 That may require some judicial intervention.

9 Q All right. Thank you, Mr. Seery.

10 MR. WILSON: That was my last question.

11 THE COURT: All right. Let's talk about whether
12 we're going to break or not.

13 Mr. Morris, is there any way you can predict how long your
14 redirect might take, not knowing what Mr. Kathman is going to
15 ask?

16 MR. MORRIS: At the moment, I have none, Your Honor.

17 THE COURT: Okay. Then I'm going to ask -- Mr.
18 Seery, I'm going to put your opinion above all others because
19 you have been testifying --

20 THE WITNESS: Sure.

21 THE COURT: -- a long time. If I cut -- if I limit
22 Mr. Daugherty's cross to 20 minutes, would you rather do that
23 and be done tonight or do you need to break? It's late,
24 obviously.

25 THE WITNESS: Your Honor, I'm open. I do most of my

1 work for the estate, and so it's really your call and your
2 staff's call. If you want to do it tomorrow, I'm certainly
3 ready to do that. If you want to do it tonight, we'll just
4 keep going. Either way.

5 THE COURT: All right.

6 THE WITNESS: I'm completely open. And I didn't mean
7 to throw it back at you like that, but, you know, you have a
8 staff and I -- I just have a small abode here.

9 THE COURT: Okay. Mr. Kathman, you've got 20 minutes
10 for your cross. And, you know, I'm sorry. We've just been
11 going a long time today and we just had a very extensive cross
12 by Mr. Wilson, so I'm hoping you can give some non-duplicative
13 cross for us. All right.

14 CROSS-EXAMINATION

15 BY MR. KATHMAN:

16 Q Mr. Seery, like Mr. Wilson, we met on Saturday at your
17 deposition, correct?

18 A That's correct.

19 MR. KATHMAN: And for the record, Jason Kathman for
20 Patrick Daugherty.

21 BY MR. KATHMAN:

22 Q Mr. Seery, Acis makes its money from managing CLOs,
23 correct?

24 A That's my understanding, yes.

25 Q Okay. And Acis was essentially Highland's CLO business;

1 isn't that right?

2 A I think that's fair, yes.

3 Q Okay. In fact, I think your words were Acis was just a
4 shell for Highland; isn't that right?

5 A I don't know if I said -- I think Acis as a corp was a
6 shell. I don't -- so I want to make sure we're not saying
7 shill. But having a shell corporation, there's nothing wrong
8 with it, that's where the Acis -- that's where the Highland
9 business was moved to, into the Acis corporate loan, and Acis
10 then took off from there. But it's the Highland -- it was the
11 Highland business, my understanding.

12 Q Highland's CLO business was moved to Acis and Acis ran
13 Highland's CLO business, correct?

14 A That's correct.

15 Q Okay. In fact, I think your testimony on Saturday was
16 Acis was Highland, right?

17 A Well, they're two -- they're two separate corporations.
18 There's nothing -- there's nothing wrong with being two
19 separate corporations. But Acis was Highland in that Highland
20 provided the employees. I don't believe at the time -- there
21 were partners in Acis, but I don't think there were employees
22 in Acis. I think they were all from -- from the Highland
23 business. And the payroll, everybody who worked there I
24 believe was on the Highland payroll.

25 Q Acis is the manager of certain CLOs, right?

1 A That's correct.

2 Q Okay. And as the manager of those CLOs, it owes certain
3 fiduciary duties to its client, the CLOs, correct?

4 A Yes. I think that's a fair assessment.

5 Q Okay. Under the Advisors Act, right?

6 A Yeah. That's correct.

7 Q And not just the CLOs, but also the investors in those
8 CLOs, correct?

9 A Well, I think it's actually more (garbled). I think it's
10 actually more the investors. The CLO is just a thing, so it's
11 sort of hard to owe a fiduciary duty to just a thing which is
12 just an investment vehicle.

13 Q Understood. So you would agree with me, then, Acis, as
14 the manager of the CLOs, owed fiduciary duties to the
15 investors in those CLOs.

16 A That's my understanding, yes.

17 Q Okay. And in exercising those duties, the manager, under
18 the Advisors Act, has a duty to subordinate its interest to
19 the interests of those investors in the CLOs, correct?

20 A I think, I think generally when you think about the
21 fiduciary duty, and I think that we -- I want to make sure I'm
22 very specific about this -- is that the manager has a duty --
23 fiduciary duties -- there's a whole bunch of legal analysis of
24 what they are -- but they are significant, serious (inaudible)
25 that the manager owes to the investors. And to the extent

1 that the manager's interests would somehow be -- somehow
2 interfere with the investors in the CLO, he's supposed to --
3 he or she is supposed to subordinate those to the benefit of
4 the investors.

5 Q Okay. So I think your answer, I think the answer to my
6 question was yes, the manager has to subordinate its interests
7 to the interests of the investors in the CLO, correct?

8 A Yeah. But your problem -- words was pretty loaded.
9 That's why I had to -- no self-interest. Not fees. There's a
10 whole bunch of different analysis. So I think it's fair to
11 say yes. I don't want to quibble with you about your
12 presentation. But we had a long discussion about this on
13 Saturday.

14 MR. MORRIS: Your Honor, if I may, I don't want to
15 interrupt Counsel's flow, but I'm not sure what the purpose of
16 this is, but I just want to make it clear that Mr. Seery is
17 not being offered as an expert on fiduciary duties, and to the
18 extent any of these questions are designed to elicit some type
19 of binding result on the Debtor, I would object.

20 THE COURT: What about that, Mr. Kathman?

21 MR. KATHMAN: Your Honor, may I respond?

22 THE COURT: Please.

23 MR. KATHMAN: I would like to respond to that, Your
24 Honor. There was a hearing held on March 4th in this hearing
25 where the Debtor put Mr. Seery on the stand and he testified

1 pretty extensively about what his duties are under the
2 Advisors Act. They were trying to pay people. Ms. Hayward
3 had him under direct examination and Mr. Seery testified there
4 about what the duties are under the Advisors Act.

5 So to the extent that Mr. Seery has already been asked
6 questions in this case about what an advisor's duties are
7 under the Advisors Act, I think that that has opened the door
8 and he can answer questions on what his understanding and
9 belief is under the Advisors Act.

10 MR. MORRIS: Your Honor?

11 MS. MASCHERIN: Your Honor, I'm going to also join in
12 with a relevance objection, and I fail to see how testimony at
13 a March hearing that was not a 9019 motion, what possible
14 relevance that has here.

15 THE COURT: Okay. How about the relevance objection,
16 Mr. Kathman? I'm a little concerned.

17 MR. KATHMAN: Sure, I'll answer the relevance
18 objection, Your Honor. The main thrust of one of our
19 objections is that the Acis releases are too -- are
20 essentially premature at this point. And the testimony I
21 think you're going to hear from Mr. Seery is that he didn't
22 consider at all whether Acis had violated its own Advisors Act
23 obligation to any of its investors. He's going to testify he
24 doesn't know who the investors are in the Acis CLOs and
25 whether Acis may have liability for violation of the Advisors

1 Act. That just purely wasn't something that he considered in
2 determining whether to grant these releases that are -- or
3 agree to these releases that were included in the settlement
4 agreement.

5 And so what I want to know, Your Honor, is, is there
6 potential liability that's there? And I'm getting at the
7 question, I'm asking Mr. Seery, did he consider those things?
8 His answer is going to be no. I took his deposition on
9 Saturday. And that's relevant, Your Honor, because as Mr.
10 Clemente -- and I'm almost done, Your Honor. As Mr. Clemente
11 said a couple of months ago, these things all looked at
12 individually can a lot of time be justified, but when you put
13 it in context and you look at the broader scope of things, you
14 have to examine all of these settlements and all of these
15 motions in the broader context.

16 And our argument, Your Honor, is that there's a whole lot
17 of litigation pending right now. We have the Committee that
18 has a deadline to potentially bring causes of action against
19 Highland CLO Funding. There's a HarbourVest objection on file
20 right now that involves stuff going on with Highland CLO
21 Funding. And all of those facts relate to potential
22 obligations that Acis has to Highland CLO Funding. You heard
23 Ms. Patel talk about that relation earlier when she was
24 speaking.

25 And so, Your Honor, part of our argument is that until we

1 know what the result of all of that litigation is, that these
2 releases are just a little premature. And Mr. Seery's
3 testimony is going to be he didn't consider any of that in
4 determining whether to approve the settlement.

5 MR. MORRIS: Your Honor, may --

6 THE COURT: You say these releases, plural. I mean,
7 we've already heard that HCLOF and Holdco and HarbourVest are
8 carved out.

9 MR. KATHMAN: I understand.

10 THE COURT: So it's all about the Highland release,
11 right? Or no? I mean, I don't know who you're talking about.

12 MR. KATHMAN: The answer to that question, Your
13 Honor, is the Committee, again, has specifically said in this
14 Court that they investigated the quote/unquote Byzantine
15 empire. They're undertaking an investigation right now of
16 whether to bring alter ego causes of action and fraudulent
17 transfer causes of action.

18 So the concern that I have and the concern my client has
19 is if at some point Highland CLO Funding and all of these
20 entities that are in the Highland Byzantine get collapsed back
21 into Highland, Highland has no ability to go back and point
22 the finger at Acis because it's given that release away, it's
23 given that release away in the settlement agreement.

24 THE COURT: I'm not understanding. Okay. Let's
25 start with this fundamental. Acis went through its own

1 bankruptcy. So I guess you're talking about post-confirmation
2 Acis.

3 MR. KATHMAN: Correct.

4 THE COURT: January 2018 --

5 MR. KATHMAN: Correct.

6 THE COURT: -- is the only Acis that claims can be
7 asserted against, okay?

8 MR. KATHMAN: Correct. Yes.

9 THE COURT: Post-January --

10 MS. PATEL: 2019, Your Honor, to be clear.

11 THE COURT: Oh, 2019? Okay.

12 MS. PATEL: Yes, Your Honor.

13 THE COURT: Time flies.

14 MS. PATEL: Our plan went effective actually February
15 of 2019.

16 THE COURT: Time flies. So, can we agree that nobody
17 has any ability -- well, I say nobody. I mean, there are --
18 there's the proof of claim of Highland. There's the
19 administrative expense claim in Acis's case that are being --
20 that's been compromised. But if anyone is going to say Acis
21 is part of an alter ego type theory, it's too late, right?
22 It's too late because --

23 A VOICE: Not the --

24 MR. MORRIS: Exactly.

25 THE COURT: That's not your argument? Then --

1 MR. KATHMAN: No, Your Honor.

2 THE COURT: -- I'm confused what, what the argument
3 is.

4 MR. KATHMAN: Your Honor, my argument is that
5 Highland CLO Funding or CLO Holdco or any of the entities that
6 the Committee is targeting, okay, --

7 THE COURT: Uh-huh.

8 MR. KATHMAN: -- there are -- there are entities.
9 Back in July, remember Mr. Clemente came before this Court and
10 you put a 90-day deadline --

11 THE COURT: Right. Right.

12 MR. KATHMAN: -- on him to investigate those claims
13 and causes of action.

14 THE COURT: Uh-huh. Uh-huh.

15 MR. KATHMAN: Okay? That was just recently extended,
16 I think, last week. If any of those entitles, CLO Holdco,
17 Highland CLO Funding, or any other of those entities that the
18 Committee might target for alter ego, not Acis, --

19 THE COURT: Uh-huh.

20 MR. KATHMAN: -- if any of those entities are
21 ultimately determined to be the alter ego and are collapsed
22 back into Highland, and those entities, like Highland CLO
23 Funding, which the Debtor is carving out of this release, --

24 THE COURT: Uh-huh.

25 MR. KATHMAN: -- or CLO Holdco, which it's carving

1 out of the release, --

2 THE COURT: Uh-huh.

3 MR. KATHMAN: -- if those entities end up getting
4 clawed back, or even fraudulent transfers for the CLOs that
5 were transferred to those entities get brought back into
6 Highland, --

7 THE COURT: Uh-huh.

8 MR. KATHMAN: -- Highland can't sue for anything that
9 Acis did post-confirmation because it's giving those releases
10 away in the settlement. I see I lost you.

11 THE COURT: Well, I -- I mean yes, that's the point
12 of the settlement.

13 A VOICE: Yeah.

14 THE COURT: But I'm not sure -- I'm not sure where
15 the questioning about fiduciary duties, where it ties into
16 this.

17 MR. KATHMAN: It's really, Your Honor -- and I can
18 probably skip a lot of this by asking Mr. Seery a penultimate
19 question: Did he consider any of this in determining whether
20 to approve the settlement or not? That will shortcut it.
21 That will shortcut it because his answer is going to be no,
22 that wasn't considered as a part of this settlement.

23 MR. MORRIS: Your Honor?

24 MS. PATEL: I still don't --

25 MR. MORRIS: Yeah. I would just -- I would just

1 point out that his reliance on the UCC, which hasn't even
2 filed an objection to this motion, is misplaced for that very
3 reason. I don't see how he gets to piggyback on something Mr.
4 Clemente said a couple months ago in a different context in a
5 motion today in which the UCC doesn't take a position. It's -
6 - this is just so far afield, Your Honor.

7 THE COURT: All right. Mr. Kathman, I'm going to
8 sustain what is essentially a relevance objection. I'm not
9 connecting the dots on -- since we established at the
10 beginning of this hearing that there would be no release of
11 HCLO Funding or CLO Holdco or HarbourVest, no mutual releases,
12 I feel like the scenario you have defined as being your
13 concern, what if the Committee decides to bring causes of
14 action against them or seek alter ego remedies, I don't know
15 how that's impacted by this proposed settlement. I just don't
16 get it.

17 MR. KATHMAN: Yeah. Can I answer that, Your Honor,

18 THE COURT: Please.

19 MR. KATHMAN: -- and address that concern?

20 THE COURT: Please.

21 MR. KATHMAN: Okay. This really isn't the crux of
22 what our objection is, Your Honor. Is that if you -- and I'm
23 not asking the Court to, I'm just -- to agree with me. What
24 I'm proposing is that, in the event Highland CLO Funding has
25 some cause of action against Acis for breach of the Advisors

1 Act, okay, under the settlement as it is sitting right now
2 carved out, no problems. Correct? But if --

3 THE COURT: So, for post-January 2019, yeah.

4 MR. KATHMAN: Right. All I'm saying -- and I'm
5 talking about --

6 THE COURT: The others are barred by the confirmation
7 order, okay?

8 MR. KATHMAN: I'm talking about post -- post-
9 confirmation Acis causes of action, Your Honor.

10 THE COURT: Uh-huh. Uh-huh.

11 MR. KATHMAN: If Highland CLO Funding were to have
12 causes of action for that, as currently proposed, yes, it's
13 carved out in the settlement agreement. But in the event
14 Highland CLO Funding is collapsed into the Debtor, okay, those
15 are causes of action that the Debtor would then have. Because
16 if Highland CLO Funding is collapsed into the Debtor, the
17 Debtor then possesses those causes of action against Acis for
18 violations of the Investors Act. But the Debtor would not be
19 able to bring those causes of action for violations of the
20 Investors Act because of these releases in the settlement
21 agreement. My point is it's premature.

22 THE COURT: I'm not sure I agree with you legally. I
23 mean, can you give me some authority for that?

24 MR. KATHMAN: I don't, Your Honor. To be honest with
25 you, no, off the top of your head, I do not have authority

1 that if it's collapsed back in there the -- if Highland --
2 well, I --

3 THE COURT: I disagree with the premise so I'm going
4 to find the line of questioning irrelevant, okay? So please
5 move on.

6 MR. MORRIS: Thank you.

7 MR. KATHMAN: Can I ask my penultimate question?

8 THE COURT: Go ahead.

9 BY MR. KATHMAN:

10 Q The penultimate question being: Mr. Seery, in determining
11 whether to approve this settlement, did you consider whether
12 Acis might have violated its Investors -- its Advisors Act
13 duties to the investors in the Acis CLO?

14 MR. MORRIS: Objection.

15 MS. MATSUMURA: Objection, relevance.

16 THE COURT: Sustained.

17 MS. MATSUMURA: Sorry. This is Rebecca Matsumura
18 from Highland CLO Funding. I just want to state on the record
19 that we also object to the premise of this line of questioning
20 and don't understand why he would be raising these on behalf
21 of our client, and we would object to whatever alter ego
22 argument he seems to be suggesting.

23 THE COURT: All right.

24 MS. MATSUMURA: Thank you.

25 THE COURT: All right.

1 MR. KATHMAN: Your Honor, I don't have any further
2 questions.

3 THE COURT: Okay. All right. Any redirect, Mr.
4 Morris?

5 MR. MORRIS: No, Your Honor.

6 THE COURT: All right. Well, Mr. Seery, thank you.
7 That concludes your testimony, unless someone recalls you for
8 rebuttal tomorrow.

9 All right. So we're going to recess, and we'll start back
10 at 9:30 in the morning.

11 Do we want to talk a little bit about -- well, Mr. Morris,
12 are you resting? I shouldn't have assumed you're resting. I
13 think this was your only witness, correct?

14 MR. MORRIS: He was. We -- exhibits -- rebuttal.
15 And so we -- we went through the --

16 THE COURT: We did.

17 MR. MORRIS: -- Exhibits 1 through 4.

18 THE COURT: We did.

19 MR. MORRIS: So the Debtor does rest, Your Honor.
20 And I think it'll be up to Mr. Daugherty and Mr. Dondero as to
21 whether Mr. Daugherty is going to testify. He was on a
22 witness list. And whether Professor Rappaport is going to
23 testify. I think those are the only two potential witnesses,
24 if they're still planning on doing it.

25 THE COURT: All right. Well, let me double-check

1 with Ms. Patel. I can't remember if you filed a witness and
2 exhibit list. Did you have any separate evidence on this?
3 You did file a witness and exhibit -- but it didn't say, it
4 didn't designate a witness. It just said --

5 MS. PATEL: It did not, Your Honor.

6 THE COURT: Okay. So you're not going to put on any
7 evidence?

8 MS. PATEL: We are not putting on any additional
9 evidence, Your Honor. Our witness and exhibit list was
10 essentially a "Me, too" along with the Debtor.

11 THE COURT: Okay. So the Debtor has rested.

12 And Mr. Kathman, can I presume you're putting on Mr.
13 Daugherty if we reconvene tomorrow morning?

14 MR. KATHMAN: Well, that would have been a good
15 presumption before this argument here, Your Honor. I'm going
16 to talk to my client about that, because if Your Honor's not
17 going to hear any testimony about potential causes of action
18 that may exist and potential liabilities out there, that may
19 alleviate the need for Mr. Daugherty's testimony. So I'm
20 going to talk to him. And what I'd like to do is reserve my
21 right to call him tomorrow morning, but I can't tell you
22 definitively one way or the other as I sit here.

23 THE COURT: All right. And then Mr. Wilson, can you
24 tell us about witnesses you plan to call? Was there anyone
25 besides Professor Rappaport?

1 MR. WILSON: No, Your Honor. We had two witnesses on
2 our list, one of which was Mr. Seery, and I've covered
3 everything we need to cover with him, so I wasn't going to
4 recall him in our case in chief.

5 We do have potential scheduling issues with Professor
6 Rappaport. She is a practicing professor, and her teaching
7 schedule does not allow her to appear tomorrow morning. She
8 has somewhat of a limited schedule. She told us that Thursday
9 morning or Tuesday --

10 THE COURT: I'm sorry, she told you what?

11 MR. WILSON: That she was available Thursday morning
12 or Tuesday. Or next Tuesday.

13 THE COURT: All right. Well, I'm sorry. We gave
14 this hearing date quite a while back. So you're saying even
15 if I went tonight until 8:00 o'clock she wasn't available
16 tonight; is that correct?

17 MR. WILSON: Well, I do believe she has another hour
18 available today.

19 THE COURT: Well, you know, it is 6:37 Central time,
20 and we've been going a very long time today. Remember, I've
21 had two other hearings besides these.

22 Let me ask this: Is there any objection to Professor
23 Rappaport? I'm not sure what the nature of her testimony is
24 going to be. And were there any objections, or no?

25 MR. MORRIS: You know, Your Honor, I actually was

1 planning on making another motion. Can we just take two
2 minutes and let me confer with my colleagues? If -- what I'm
3 considering, if it would be okay with counsel for Mr. Dondero,
4 is to just let the report in for what it is, without
5 testimony. I don't know if that's something that they would
6 consider. And then subject to, you know, consulting with my
7 client, that would be something that I might recommend in
8 order to move this along.

9 It sets forth her opinions. I'm not sure -- you know, and
10 if I don't object to it, I'm not sure why we need to hear from
11 the witness.

12 THE COURT: All right. What about that, Mr. Wilson?

13 MR. WILSON: If you'll allow me a real quick consult
14 with my co-counsel, I'll give you an answer.

15 THE COURT: Okay.

16 MR. MORRIS: Can we just take three minutes, Your
17 Honor?

18 THE COURT: Yes.

19 MR. MORRIS: Not a long break.

20 THE COURT: But yes, please, three minutes. There
21 may be people wanting to watch the World Series, but others of
22 us are just tired. Okay.

23 MR. MORRIS: Thanks so much.

24 THE COURT: Okay. Three minutes.

25 (A recess ensued from 6:40 p.m. to 6:43 p.m.)

1 MS. PATEL: Your Honor, during the break if we could
2 also -- if Mr. Kathman wouldn't mind asking his client, I
3 believe Mr. Daugherty's on the hearing as well, if they could
4 make a decision. Assuming a couple dominoes fall into place,
5 if Mr. Daugherty's not going to testify, and assuming
6 Professor Rappaport's report is going to come in, I'm hoping
7 you close this tonight or talk about when we're going to do
8 closing those arguments if they're going to be lengthy.

9 MR. KATHMAN: Your Honor, Ms. Patel has always --
10 maybe sometimes, maybe not always, but sometimes a step ahead
11 of me. I have spoken with Mr. Daugherty and we're not going
12 to call him.

13 THE COURT: You are not going to call him? That's
14 what you said?

15 MR. KATHMAN: No.

16 THE COURT: Okay.

17 MR. KATHMAN: No, we are not going to call him, Your
18 Honor.

19 THE COURT: Okay.

20 MR. MORRIS: The Debtor is prepared to allow her
21 report to come in without testimony. And without objection.

22 THE COURT: I'm sorry, say again?

23 MR. MORRIS: Your Honor, the Debtor would consent, if
24 Mr. Dondero consents, the Debtor would consent to the
25 admission of Professor Rappaport's report into evidence

1 without objection, provided there's no testimony.

2 THE COURT: All right. So do we have Mr. Wilson
3 back?

4 MR. WILSON: Yes, Your Honor. Mr. Dondero will agree
5 to the admission of Professor Rappaport's report in lieu of
6 her testimony.

7 I would ask a couple things. Number one, that I be
8 allowed an opportunity to admit the exhibits on my exhibit
9 list, which include the report and Professor Rappaport's CV.

10 And then the second thing I would ask is that Judge Lynn
11 had prepared a closing argument and we would like sufficient
12 time to -- for him to give that before the close of this
13 hearing.

14 THE COURT: All right. Well, as far as Dondero's
15 exhibits, they are at Docket #1194. There are --

16 MR. KATHMAN: Your Honor, can I make a suggestion
17 with closing arguments, I mean, potentially?

18 THE COURT: Okay. Let me take these in steps. We
19 have Exhibits A through AA, A through Z plus AA, that I think
20 you're offering. That's --

21 MR. WILSON: Well, Your Honor, briefly, we're not
22 going to try to put in the Seery depo, the Seery video, or the
23 Nancy Rappaport depo.

24 THE COURT: Okay.

25 MR. WILSON: I guess we'll just do Dondero Exhibits A

1 through X.

2 THE COURT: A through X have been offered. Does
3 anyone object?

4 MR. MORRIS: Just one second, Your Honor.

5 THE COURT: Okay.

6 (Pause.)

7 MR. MORRIS: Only to Exhibit P as in Peter. That is
8 the expert report. And as long as it's not being offered for
9 the truth of the matter asserted, it's being offered solely
10 for the purposes of expert testimony, the Debtor has no
11 objections to any other of the proffered A through X.

12 THE COURT: All right. Any other objections?

13 All right. With that caveat -- Mr. Wilson, I assume you
14 don't have any issue with the caveat on the Rappaport report.
15 So with that, I'll --

16 MR. WILSON: No, there is none.

17 THE COURT: I'll admit these.

18 (James Dondero's Exhibits A through X are received into
19 evidence.)

20 THE COURT: If I go to the docket, the expert report
21 of Professor Rappaport is actually there on the docket at
22 1194.

23 MR. WILSON: (inaudible). Yes, Your Honor.

24 THE COURT: Okay. So I need to read that before we
25 come back tomorrow, and I guess see if there's anything else

1 on here I haven't looked at.

2 So what we will do is we'll come back tomorrow morning for
3 closing arguments. And Mr. -- well, let me ask. I was going
4 to say 9:30, but would 10:00 o'clock, by chance, be a little
5 bit better? That'll help me look at this Professor Rappaport
6 report. I don't know how long it is, but --

7 MR. MORRIS: I will be available whatever time is
8 convenient for the Court. Can you give us some guidance as to
9 how long you will tolerate closing statements?

10 THE COURT: Tolerate. Your word. I think, you know,
11 20 minutes each ought to be plenty.

12 MR. MORRIS: That's fair.

13 THE COURT: So we'll start at 10:00 o'clock Central
14 and we'll hear those closing arguments. And when we're done
15 tomorrow or with this issue, I'd love to get a preview as far
16 as the disclosure statement hearing Thursday at 9:30. I think
17 I told you four. Five objections were filed in the last, you
18 know, few hours we've been in court. Every member of the
19 Creditors' Committee plus the Creditors' Committee filed an
20 objection. And I have not looked at them to know how lengthy
21 they are. But I'd love to get a preview on whether you're
22 going to be working and trying to resolve these and maybe
23 we'll start and adjourn, or if we're going to have a knock-
24 down drag-out. Okay?

25 MR. KATHMAN: Your Honor, I would like to offer two

1 exhibits. I don't think they're controversial. It's just the
2 Debtor's plan and disclosure statement. They were our PHD 23
3 and 24. They're filed at Docket #1079 and 1080 in the case.
4 It's the Debtor's plan and disclosure statement. I can't
5 imagine there's any objection to those.

6 THE COURT: Okay.

7 MR. MORRIS: No objection.

8 THE COURT: All right. Those will be admitted.

9 (Patrick Daugherty's Exhibit 23 and 24 are received into
10 evidence.)

11 THE COURT: All right. So we'll see you at 10:00
12 o'clock in the morning.

13 MS. PATEL: Your Honor?

14 MR. ANNABLE: Your Honor?

15 MS. PATEL: If I may.

16 THE COURT: Briefly.

17 MS. PATEL: My apologies. I know I kind of started
18 off late in the hearing, but as I explained earlier today, I
19 have an in-movable conflict tomorrow morning. Mr. Shaw will
20 handle closing arguments for us. And may I be excused from
21 appearing tomorrow?

22 THE COURT: You are excused. Thank you. All right.
23 Good night.

24 MS. PATEL: Thank you, Your Honor.

25 MR. ANNABLE: Your Honor? Your Honor?

1 THE CLERK: All rise.

2 MR. ANNABLE: This is Zach Annable. Your Honor?

3 Your Honor?

4 THE COURT: This better be good, Mr. Annable.

5 MR. ANNABLE: I apologize. This is just a
6 housekeeping matter. For purposes of the continued hearing
7 tomorrow morning, I know it's too late for your staff to
8 probably set up the WebEx meeting information, but if you
9 could have Ms. Ellis distribute that to me tomorrow morning, I
10 will try to make sure to get it out to everybody. Just
11 letting you know we will need a new WebEx invitation for the
12 hearing tomorrow morning.

13 THE COURT: All right.

14 MR. MORRIS: Thank you. Thank you. Good catch.

15 THE CLERK: She's probably listening anyway. She
16 usually listens.

17 THE COURT: Yes. She -- hang on. Knowing Traci, she
18 is listening.

19 (Pause.)

20 THE COURT: Well, she surprised me. She didn't pick
21 up the phone. I promise you, she'll be all over it, so we'll

22 --

23 THE CLERK: I'll send an e-mail.

24 THE COURT: Yes. Mike's sending her an e-mail right
25 now, so you all will have it in plenty of time to get

1 connected. Okay. Thank you. Mr. Annable, that was worth it.
2 Okay?

3 MR. ANNABLE: Thank you, Your Honor.

4 THE CLERK: All rise.

5 (Proceedings concluded at 6:51 p.m.)

6 --oOo--

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CERTIFICATE

21

22

I certify that the foregoing is a correct transcript to the best of my ability from the electronic sound recording of the proceedings in the above-entitled matter.

23

/s/ Kathy Rehling

10/22/2020

24

Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

Date

25

001796

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

In Re: HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-sgj11
UBS Securities LLC, et al	§	
Appellant	§	
vs.	§	
Highland Capital Management, L.P.	§	3:20-CV-03408-G
Appellee	§	

[1273] Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # [1089](#)) Entered on 10/23/2020.

**APPELLEE RECORD
VOLUME 8**

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Counsel for Appellee 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., ¹	§ Case No. 19-34054-sgj11
Debtor.	§
In re:	§
JAMES DONDERO,	§
Appellant,	§
v.	§
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§
Appellees.	§

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APPELLEE'S COUNTER-DESIGNATION OF RECORD ON APPEAL

¹ 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.

Appellee Highland Capital Management, L.P. (“Appellee”), pursuant to Rule 8009(a)(2) of the Federal Rules of Bankruptcy Procedure, hereby submits its counter-designation of the record in the appeal filed by James Dondero (“Appellant”) from the *Order Approving Debtor’s Settlement with (a) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (b) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (c) Acis Capital Management, L.P. (Claim No. 159) and Authorizing Actions Consistent Therewith* [Docket No. 1302] entered by the United States Bankruptcy Court for the Northern District of Texas on October 28, 2020 in above-captioned chapter 11 bankruptcy case (the “Bankruptcy Case”). Appellee respectfully reserves the right to supplement and/or amend the record on appeal designated herein.

I. Items Counter-Designated from the Docket in the Bankruptcy Case

Appellee counter-designates the following additional items from the docket in the Bankruptcy Case, in addition to the items previously designated by the Appellant:

	<u>Date</u>	<u>Docket No.</u>	<u>Description</u>
Vol. 8 001799	10/16/2020	1202-2	Proof of Claim No. 156 of Joshua N. Terry and Jennifer G. Terry
001819	10/16/2020	1202-3	Proof of Claim No. 159 of Acis Capital Management, L.P.
001801	10/16/2020	1202-4	Declaration of Gregory V. Demo in Support of the Debtors' Motion for Entry of an Order Approving Settlement with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith

Appellee reserves the right to designate additional items depending on the arguments made by Appellant on appeal.

Dated: December 7, 2020.

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No.143717)
Ira D. Kharasch (CA Bar No. 109084)
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jmorris@pszjlaw.com
gdemo@pszjlaw.com

-and-

HAYWARD & ASSOCIATES PLLC

/s/ Zachery Z. Annable
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Zachery Z. Annable
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Dallas, Texas 75231
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Fax: (972) 755-7110

Counsel for Appellee Highland Capital Management, L.P.

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
 (State)

Case number 19-34054

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** See summary page
 Name of the current creditor (the person or entity to be paid for this claim) _____
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
See summary page	

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Contact phone 214-906-4792 Contact phone _____
 Contact email joshuanterry@gmail.com Contact email _____

(see summary page for notice party information)
 Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 425000 See Exhibits 1-2. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

Breach of Contract - See Exhibits 1-3

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/08/2020
MM / DD / YYYY

/s/ Joshua N Terry and Jennifer G Terry
 Signature

Print the name of the person who is completing and signing this claim:

Name Joshua N Terry and Jennifer G Terry
First name Middle name Last name

Title _____

Company _____
 Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (877) 573-3984 | International (310) 751-1829

Debtor: 19-34054 - Highland Capital Management, L.P. District: Northern District of Texas, Dallas Division		
Creditor: Joshua N. Terry on behalf of his IRAs and Jennifer G. Terry on behalf of her IRAs and The Terry Family 401-K Plan 25 Highland Park Village, Suite 100-848 Dallas, Texas, 75205 USA Phone: 214-906-4792 Phone 2: Fax: Email: joshuanterry@gmail.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Creditor	
Disbursement/Notice Parties: Brian P. Shaw 500 N. Akard St. Suite 1900 Dallas, Texas, 75201 USA Phone: 214-239-2707 Phone 2: Fax: E-mail: shaw@roggedunngroup.com		
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: Breach of Contract - See Exhibits 1-3	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 425000 See Exhibits 1-2	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Joshua N Terry and Jennifer G Terry on 08-Apr-2020 5:31:21 p.m. Eastern Time Title: Company:		

Ex. 1

- \$425,000.00 (principal amount of the settlement payment)
- \$69.86 in per diem interest from and after December 2, 2019, at a rate of simple interest of 6% per annum pursuant to Texas Finance Code § 302.002 (December 2, 2019, is 30 days after a reasonable time for payment of the settlement payment, November 2, 2019). *See e.g. DeClariss Associates v. McCoy Workplace Sols., L.P.*, 331 S.W.3d 556, 563 (Tex. App.—Houston [14th Dist.] 2011, no pet.) (stating that when no time for compliance is included in a contract, the law presumes compliance is required within a reasonable time)
- Reasonable and necessary attorneys' fees and costs pursuant to Chapter 38 of the Texas Civil Practices and Remedies Code and any other right to attorneys' fees and costs
- Declaratory relief regarding the form of release/settlement agreement to which the Debtor is bound
- Injunctive relief requiring Debtor's compliance the Rule 11 Agreement, including but not limited to removing /revising the press release and letter on website



From: [Michael K. Hurst](#)
To: [Brian Shaw](#)
Subject: Re: Terry v. Highland -- Rule 408: DC-16-11396; Terry et al v. Highland Capital Management, LP et al
Date: Wednesday, October 02, 2019 6:44:45 PM

Approved

MICHAEL K. HURST | Partner
Board Certified – Civil Trial Law
Texas Board of Legal Specialization

LynnPinkerCoxHurst

Direct [214 981 3838](tel:2149813838)

Main [214 981 3800](tel:2149813800)

Fax [214 981 3839](tel:2149813839)

mhurst@lynnllp.com

[2100 Ross Avenue, Suite 2700](#)

[Dallas, Texas 75201](#)

www.lynnllp.com

On Oct 2, 2019, at 4:18 PM, Brian Shaw <shaw@roggedunngroup.com> wrote:

Michael:

Pursuant to our call, see attached, which when agreed to by you, will be part of our Rule 11 Agreement. Note on page 4 and 9 of the PDF that I made a revision to the language because I had no option – I revised it to read “very few disputes.” You can see that revision on the right side of the PDF under comments if you are using Adobe Acrobat Pro 2017 (probably other versions as well). I also moved the date to have the formal settlement docs done to October 9th.

So, incorporating all of the terms and revisions from our back-and-forth, the Rule 11 shall be as follows in bold:

- 1. Defendants shall pay Plaintiffs \$425,000;**
- 2. Dismissal with prejudice of all claims that were or could have been brought in the case;**
- 3. The parties will mutually, fully, and comprehensively release each other with usual and customary releases (we do not intend to settle this matter if it is Defendants’ intent to use one of their thousands of entities, funds, or affiliates to sue, directly or indirectly, Mr. or Mrs. Terry);**

001804

however, the releases shall not release Highland CLO Funding Ltd.'s claims in Guernsey nor any claims of Acis Capital Management, LP or Acis Capital Management GP, LLC;

4. Defendants shall (a) take down the press release and letter from Highland's website (Ex. 4 and 5 to Plaintiffs' live pleading), and shall not otherwise publish same or similar through any other avenue, but Defendants may post the press release and letter with the revisions in the attached Exhibit 1, and (b) Defendants shall refrain from taking any affirmative steps to associate the press release or letter to Mr. Terry, e.g. through search engine optimization;
5. The parties will execute a formal settlement agreement that reflects the foregoing and other usual and customary settlement terms. If no such settlement agreement is signed by October 9, 2019 because of a dispute on its terms, the parties agree to proceed to a bench trial—and hereby expressly and knowingly waive their right to a jury--before Judge Moore starting on October 21st (with no discovery), and the Court shall determine breach of the Rule 11 Agreement, shall enter a declaratory judgment as to the terms of the settlement agreement, and shall award the prevailing party their attorneys' fees, costs and expenses (only those that accrued on or after the date of this Rule 11 Agreement).

Please respond with "agreed" and this will constitute a legally-enforceable agreement.

Sincerely,

Brian

Brian P. Shaw
Direct (214) 239-2707
Mobile (214) 684-4893
shaw@roggedunngroup.com

From: Brian Shaw
Sent: Wednesday, October 02, 2019 1:59 PM
To: Michael K. Hurst <MHurst@lynnllp.com>
Subject: RE: Terry v. Highland -- Rule 408: DC-16-11396; Terry et al v. Highland Capital Management, LP et al

Michael:

See below in red.

001805

Brian P. Shaw
Direct (214) 239-2707
Mobile (214) 684-4893
shaw@roggedunngroup.com

From: Michael K. Hurst <MHurst@lynnllp.com>
Sent: Wednesday, October 02, 2019 1:23 PM
To: Brian Shaw <shaw@roggedunngroup.com>
Subject: RE: Terry v. Highland -- Rule 408: DC-16-11396; Terry et al v. Highland Capital Management, LP et al

1. Ok.
2. Ok
3. We are not releasing any of the Guernsey claims, nor do we expect Terry to release Acis' claims arising after the Acis BK. We are settling THIS case, and this case only. Agreed as to Guernsey and Acis BK (with the strike-out), but if Highland or its affiliates has a present intent to sue Mr. or Mrs. Terry, directly or indirectly, in any other fora, then we are not settling this case and will proceed to trial.
4. ~~As mentioned, we cannot "withdraw" a press release; it was already sent out years ago. However, they can repost the release on their website with the allegedly defamatory remark removed, as well as the comments about your firm. We have not requested you "withdraw" the press release, but rather "take it down." That is a simple affair -- remove it from Highland's website. It's almost two years old, anyway. And this is the only reason my client came down \$325K. So, if your client is not willing to take that modest and very reasonable step, and instead wants to continue attempting to besmirch my client and my firm's reputation online, then we'll go to trial on our theft and conversion claims.~~
-With regard to the
5. Ok

MICHAEL K. HURST | Partner
Board Certified – Civil Trial Law
Texas Board of Legal Specialization

LynnPinkerCoxHurst
2100 Ross Avenue, Suite 2700
Dallas, Texas 75201
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Recognized as one of the Top 4 firms, Commercial Lit. Texas – Chambers
Michael K. Hurst repeatedly recognized among Top 100 lawyers in Texas and DFW – Super Lawyers

<image001.jpg>

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Lynn Pinker Cox & Hurst, LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail, and destroy this communication and all copies thereof, including all attachments.

From: Brian Shaw <shaw@roggedunngroup.com>

Sent: Monday, September 30, 2019 11:27 AM

To: Michael K. Hurst <MHurst@lynnllp.com>

Subject: RE: Terry v. Highland -- Rule 408: DC-16-11396; Terry et al v. Highland Capital Management, LP et al

Michael:

I know you have some people out today, but since we continue to prepare for trial that starts a short three weeks from today, we need to get a Rule 11 in place by tomorrow at 5:00 pm. That's our drop-dead, i.e. our offer is withdrawn at that time and we can work to reschedule Pitt. We also need to move up our exchange of exhibits, etc., so that we have everything in advance of our pre-trial, which is two weeks from today.

I trust you understand the time-sensitivity of this.

Thanks,

Brian

Brian P. Shaw
Direct (214) 239-2707
Mobile (214) 684-4893
shaw@roggedunngroup.com

From: Michael K. Hurst <MHurst@lynnllp.com>

Sent: Sunday, September 29, 2019 11:35 AM

To: Brian Shaw <shaw@roggedunngroup.com>

Subject: Re: Terry v. Highland -- Rule 408: DC-16-11396; Terry et al v. Highland Capital Management, LP et al

Brian, this is consistent with what we discussed yesterday. As I mentioned, I have

001807

authority on the monetary competent. I need to get confirmation on the remaining items, which may not happen until Tuesday.

In the meantime, per our discussion, we are pulling the Pitt Depo for this week. If we do not settle, we can schedule his depo for next week. The rescheduling of the depo will not be used as a reason for a continuance of the trial.

Michael

MICHAEL K. HURST | Partner
Board Certified – Civil Trial Law
Texas Board of Legal Specialization

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mhurst@lynnllp.com

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[Dallas, Texas 75201](#)

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On Sep 28, 2019, at 12:28 PM, Brian Shaw <shaw@roggedunngroup.com> wrote:

Michael:

This e-mail, when responded to by you with “agreed,” shall constitute a legally-enforceable agreement as contemplated by TRCP 11 to settle the above-entitled lawsuit. Our e-mail responses will be deemed to constitute a “signed” agreement under Rule 11. The material terms of the agreement are as follows:

1. Defendants shall pay Plaintiffs \$425,000;
2. Dismissal with prejudice of all claims that were or could have been brought in the case;
3. The parties will mutually, fully, and comprehensively release each other with usual and customary releases (we do not intend to settle this matter if it is Defendants’ intent to use one of their thousands of entities, funds, or affiliates to sue, directly or indirectly, Mr. or Mrs. Terry);
4. Defendants shall take down the press release and letter from Highland’s website (Ex. 4 and 5 to Plaintiffs’ live pleading), and

shall not otherwise publish same or similar through any other avenue;

5. The parties will execute a formal settlement agreement that reflects the foregoing and other usual and customary settlement terms. If no such settlement agreement is signed by October 4, 2019 because of a dispute on its terms, the parties agree to proceed to a bench trial—and hereby expressly and knowingly waive their right to a jury—before Judge Moore starting on October 21st (with no discovery), and the Court shall determine breach of the Rule 11 Agreement, shall enter a declaratory judgment as to the terms of the settlement agreement, and shall award the prevailing party their attorneys' fees, costs and expenses (only those that accrued on or after the date of this Rule 11 Agreement).

Thanks,

Brian P. Shaw

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<Ex. 1 to Rule 11 (strike out and revisions to press release and letter to WSJ).pdf>

EXHIBIT
4

Matt Wirz, Wall Street Journal: Fake News, Sloppy and Malicious Reporting

November 30, 2017 [Press Releases](#)

The Wall Street Journal currently is involved in legal proceedings arising from the newspaper aiding a source, a former Highland employee, in violating a court order. The former employee since has been sentenced to jail for violating this court order. Is it appropriate for the Journal to publish a sensationalized article against Highland under such circumstances?

The following is Highland Capital Management’s response to that article, which ran online on November 26, 2017 and in print on November 27, 2017. The below follows a letter sent by Highland co-founder and president James Dondero to the editor in chief of the Wall Street Journal (WSJ), which can be found here: [Highland Capital Management Letter to the Wall Street Journal, November 28, 2017](#)

When a reporter with an agenda mischaracterizes the facts, it falls on the victim to set the record straight. This is just such a situation. Matthieu Wirz’s article about Highland was long on salacious language, but short on context and facts. Mr. Wirz’s record makes his agenda clear. Since June 2016, he has written 15 stories for which he was the sole reporter, four of which are negative stories about Highland. He has not written any negative pieces focused on any other investment managers. Despite our repeated efforts to provide Mr. Wirz with the actual facts, Mr. Wirz refuses to present an accurate picture of Highland. Interestingly he is the only WSJ author to write a negative article about Highland in the past ten years. The facts below are those that Mr. Wirz did not deem relevant in his latest printed attack on Highland’s business.

In stark contrast to Mr. Wirz’s current journalistic agenda, his earlier writings from 2004 to 2011 about our firm lauded Highland’s “legal judo” for the benefit of its investors. His tone radically changed in 2012 once he started using Patrick Daugherty, a former Highland portfolio manager, as a primary information source. Mr. Daugherty resigned and then embarked on a defamatory crusade when Highland rejected his exorbitant compensation demands in February 2012. In March 2012, Mr. Wirz published his first negative article about Highland on an unrelated dispute. The article quotes “people close to the matter,” which the facts indicate was none other than Mr. Daugherty.

Two months later, when Mr. Daugherty’s dispute with Highland went to court, Mr. Wirz’s first article on the dispute further relied on Mr. Daugherty’s skewed portrayal of Highland. In the

resulting 2014 trial, the jury cleared Highland of Mr. Daugherty's allegations of mismanagement during the financial crisis, while Mr. Daugherty himself was found to be in breach of his fiduciary duties and ordered to pay Highland \$3.2 million dollars. Most notably, the court put in place an injunction ordering Mr. Daugherty to cease disclosing Highland's confidential information. Despite these findings, Mr. Wirz continued to use Mr. Daugherty as a primary source in biased reporting about Highland's business, including with respect to matters wholly unrelated to Mr. Daugherty.

Astoundingly, Mr. Daugherty's misconduct was not deterred by the injunction against him. As recently as 2016, the court found Mr. Daugherty lied under oath about recent violations of the injunction. After seven different court hearings in which the judge repeatedly warned Mr. Daugherty of the consequences of his violations, **the court ultimately found Mr. Daugherty in contempt of court and sentenced him to 38 days in jail.**

In a separate set of violations still under investigation, Mr. Daugherty leaked confidential information to the WSJ. On Friday August 12, 2016, Highland provided the WSJ with a copy of the injunction order prohibiting Mr. Daugherty from leaking Highland's confidential information. The following Monday, Mr. Wirz again was on the phone with Mr. Daugherty discussing Highland's confidential information. The court ordered Mr. Wirz and the WSJ to provide information about these conversations to Highland, which the WSJ is appealing. Despite Mr. Daugherty having been found to have lied under oath about Highland, **Mr. Wirz confirmed in writing as recently as yesterday that he continues to use Mr. Daugherty as a source in his Highland-related coverage**, including the misleading November 27, 2017 WSJ article.

~~The November 27, 2017 article about Highland's employment dispute with another former employee, Josh Terry, is a continuation of his agenda-based and misleading journalism about Highland in the wake of the Mr. Daugherty dispute. Mr. Wirz once again failed to mention numerous salient facts, including that Mr. Terry's false and sensationalized allegations against Highland were simply part of Mr. Terry's extortion scheme against Highland. In late 2014, Mr. Terry tried to renegotiate his partnership agreement with Highland's principals to increase his interest in Highland affiliate Acis Capital Management, L.P. to a permanent 25 percent equity position. Though he declared that he loved working at Highland and wanted to spend the rest of his career here, he threatened to leave if his increased equity demands were not met. Highland explained that Mr. Terry's performance and track record did not warrant such a restructuring of his agreement. After Highland denied his requests, Mr. Terry commenced secretly recording conversations to extort in settlement the value he failed to achieve in negotiations.~~

~~Mr. Terry secretly recorded conversations at Highland for over 18 months. He recorded calls with investors, counterparties, attorneys, and employees without Highland's knowledge or consent. He recorded conversations with persons in various states and countries, in violation of federal and state wiretapping laws. He recorded, and later disclosed, Highland's privileged conversations with its attorneys on various transactions. During these recorded conversations, Mr. Terry repeatedly baited co-workers to elicit inflammatory or out-of-context statements so he could attempt to manufacture a whistleblower claim. After his termination on June 9, 2016, Mr. Terry selectively retained recordings with inflammatory statements, but deleted recordings that exonerated Highland or~~

~~tended to disprove Mr. Terry's narrative of the facts. Prior to filing his claims against Highland, Mr. Terry threatened to make wild allegations to the SEC unless Highland paid him over \$10 million in ransom. It is telling that despite over 18 months of recordings, Mr. Terry did not make any allegations of impropriety by Highland until after he was terminated for cause.~~

~~Mr. Terry was terminated for improper sexual relations, poor performance and numerous compliance violations, among other things. Mr. Wirz's recent article states "Highland... used pretexts and false allegations of a sexual relationship with a coworker to fire [Mr. Terry]." Terry's own pleadings state "Terry did not have a sexual relationship with any of his subordinates." While Mr. Wirz would leave his readers believing Highland maliciously made up Mr. Terry's affairs as some form of retribution, Mr. Terry admitted, both at deposition and in the arbitration, that "I had an affair with Ms. [omitted] from mid 2013 to the end of 2014." The affair severely impacted the junior female employee's career and was indicative of a pattern of behavior that resulted in his ultimate termination. Once Highland proved that Mr. Terry lied in his pleadings about one of his affairs, we did not want to further disrupt the lives of its former employees nor did we need to prove anything else. While Highland continues to assert that Mr. Terry had at least three intra-office affairs, the WSJ's observation that Highland did not present enough evidence of additional affairs is not relevant in light of Mr. Terry's admission. Additionally, since Mr. Terry's departure, several additional women have come forward with allegations of sexual harassment and unwanted advances by Mr. Terry. Finally, numerous senior persons at Highland recommended that he be fired for both his sexual misconduct and numerous compliance violations. This was not a personal battle between Mr. Terry and Mr. Dondero. Highland was compelled to terminate Mr. Terry for his overall pattern of misconduct.~~

~~Highland made Mr. Wirz aware of this background. We also expressed concern to both Mr. Wirz and his editor on numerous occasions about Mr. Wirz's characterization of these inappropriate sexual relationships. Rather than seeking to understand the truth in our allegations of Mr. Terry's inappropriate sexual relationships, Mr. Wirz chose to write a story that misleads readers with the implication that Highland's very real accusations were baseless.~~

~~Mr. Wirz's article omits or twists key facts about the arbitration proceeding. Mr. Terry demanded for over \$210 million in the arbitration. He was awarded less than four percent of that amount. Additionally, Mr. Terry lied under oath at the arbitration, including about his contacts with Mr. Daugherty after his departure from Highland.~~

~~Furthermore, though Mr. Terry testified that Highland relied on him as the primary driver of its CLO business, Mr. Terry failed to raise a single dollar of third party CLO equity for his Acis business, which was his key job responsibility. Mr. Terry's self-aggrandizing testimony to the contrary, Highland helped to create the CLO industry years before Mr. Terry arrived and he merely filled a senior vacancy on the structured products team. Notably, Highland has continued to grow its CLO business in his absence.~~

~~Mr. Wirz's article gratuitously raises unrelated legal disputes from Highland's past, but fails to mention those related to the subject of the article. In particular, Mr. Wirz did not report that Rogge Dunn, Mr. Terry's counsel, represented a group of clients opposed to Highland that were sanctioned, billed for costs, and admonished by the court in a prior matter. In that proceeding, Mr. Dunn's former client, a 62 year old CEO, served six months in jail for destroying evidence~~

~~and then repeatedly lying about it under oath. The defendants, including Mr. Dunn's clients, were fined over \$750,000 for destruction of evidence while Mr. Dunn's firm was representing them. This was the largest sanctions award in Dallas County history. As a result, the defendants settled the lawsuit, **paying to a Highland affiliate the largest commercial case settlement in Texas that year.**^[1] Mr. Dunn, now seeking retribution against Highland, worked with Mr. Terry months before Mr. Terry was terminated, including consulting with Mr. Terry on how to make his secret recordings.~~

~~Highland's ongoing compensation dispute with Mr. Terry gave Mr. Wirz another opportunity to twist the facts of a Highland lawsuit. The article misleads its readers in several ways. First, Mr. Wirz wrote that Highland made "transfers" between investment vehicles, when he knows that did not occur. Rather, **Mr. Wirz is aware that the transaction involved a mere six month extension of a previously existing credit facility.** No Highland investors ever extended additional loans or "transferred" anything. Mr. Wirz was told this before he published, but only said that he "would take everything under consideration."~~

~~Mr. Wirz intentionally drafted the article to imply, if not state, that Highland breached a duty to its investors. Mr. Wirz suggested to Highland that he was going to draw just such a conclusion, only backing down after Highland engaged in numerous conversations with his editor. Prior to the article's publication, **Highland provided Mr. Wirz with the written testimony of Mr. Terry's own expert showing Highland neither breached nor ever instructed Mr. Terry to breach any duty to Highland's investors.** Mr. Wirz did not find this newsworthy. He also did not find newsworthy that Mr. Terry lost his wrongful termination claim, meaning that the arbitrators found that Highland did not ask Mr. Terry to breach any duties in relation to any transaction. **While Mr. Wirz alleges that Highland engaged in improper transfers, Mr. Wirz omitted that the arbitration panel dismissed the fraudulent transfer claims against Highland.** Finally, though Mr. Wirz mentions that Mr. Daugherty had alleged improper transfers in his earlier litigation with Highland, **Mr. Wirz's article fails to mention that the jury found these allegations were baseless.** Mr. Wirz intentionally reported incomplete facts, leading his readers to false conclusions.~~

Mr. Wirz, as part of his agenda, also mischaracterized several unrelated disputes. For example, Mr. Wirz focused on a prior arbitration regarding the Highland Credit Strategies Fund. The article focused on a small part of numerous issues raised by the wind down of this financial crisis-era hedge fund. Mr. Wirz refused to mention that Highland voluntarily bought out the remaining portfolio assets at the request and for the benefit of the investors. As part of the transaction, the lawsuit was resolved and the investors agreed to vacate and nullify the award against Highland. One investor requested WSJ retract an inaccurate, negative statement that was attributed to the investor in the Mr. Wirz's 2016 article about the dispute. The Credit Strategies Fund's final resolution not only maximized returns to investors, but also generated \$10 million in value to Highland. However, these additional facts did not fit Mr. Wirz's narrative.

Mr. Wirz's Highland narrative does not have much room for either facts or context. Since Highland's founding in 1993, approximately 25 partners have come and gone from the firm. While Mr. Wirz paints Highland as constantly litigating against its former partners, Highland ~~only~~ has had ~~two such disputes in 24 years. Mr. Daugherty and Mr. Terry.~~ In Mr. Daugherty's case, a jury found him to have breached his fiduciary duty and a judge held him in contempt of

court and sentenced him to jail. **Mr. Daugherty also paid a \$3.2 million judgment to Highland, and continues to owe additional amounts.** Mr. Wirz neglected to mention any of these facts about his source. ~~The second dispute, Mr. Terry, is on going and Highland's numerous counterclaims against Mr. Terry will be substantially larger than the initial arbitration award.~~ While Highland regrets having to litigate with former employees, the firm cannot reward extortive behavior.

Mr. Wirz also refuses to cover any positive legal or other news about Highland. Though he states that Highland has fought with investors since the financial crisis, he fails to mention that Highland was vindicated in every case ultimately decided by a court. Mr. Wirz mentions Highland's financial crisis-era fights with counterparties, but fails to mention that Highland has achieved over \$700 million in judgments and settlements for its investors. He also omits key industry context: despite these legal proceedings, Highland's litigation docket is less than similarly situated asset managers and is not particularly litigious.

Of the recent interaction with Mr. Wirz, Andrew Merrill, a senior partner at a financial communications firm involved in the matter whose clients manage over \$10 trillion, said, "In all the media interactions we've witnessed, this was among the most biased, unfair treatments we have ever seen, especially considering Highland's willingness to engage in constructive dialogue and numerous attempts at information sharing."

Evidently, this is not an isolated incident at the Journal. Ray Dalio's account of Bridgewater's interaction with two WSJ reporters from January of this year indicates there is a pattern of this behavior. (See Mr. Dalio's account of Bridgewater's experience here: [The Fake and Distorted News Epidemic and Bridgewater's Recent Experience with the Wall Street Journal](#)).

As Mr. Dalio points out, the news media, unlike the asset management industry, exists without regulation and supervision. As such, there is no obvious recourse available to address unethical behavior. The closest proxy to regulatory standards in this instance is the Dow Jones Code of Conduct. (Read the full code of conduct here: [Dow Jones Code of Conduct](#))

That document states:

*"Dow Jones will suffer...if our customers cannot assume that:
Our facts are accurate and fairly presented;
Our analyses represent our best independent judgments rather than our preferences, or those of our sources, advertisers, or information providers;
Our opinions represent only our own editorial philosophies; or
There are no hidden agendas in any of our journalistic undertakings.
All companies profess business integrity. But the impact of our work on the work of others, and on their lives and fortunes, places special responsibilities upon all Dow Jones employees."*

In his interactions with Highland, Mr. Wirz violated those stated principles. Highland made those transgressions known to his editors, yet the WSJ proceeded to allow an inaccurate, misleading, agenda-driven article to be published with conclusions directly informed by a biased source.

[1] Highland is prohibited by agreement from disclosing the exact amount.

HIGHLAND CAPITAL
MANAGEMENT



Mr. Gerard Baker
Editor in Chief
The Wall Street Journal

November 28, 2017

Dear Mr. Baker,

I write to make you aware of the situation around the *Wall Street Journal's* recent article about Highland Capital Management. The article, which ran online on November 26, 2017 and in print on November 27, 2017, included a litany of inaccurate and misleading information about Highland, despite extensive efforts by our firm to engage in constructive dialogue with both the reporter responsible and ultimately his editor to provide the relevant facts necessary to produce a fair and balanced report.

When a reporter with an agenda mischaracterizes the facts, it falls on the victim to set the record straight. This is just such a situation. Matthieu Wirz's article about Highland was long on salacious language, but short on context and facts. Mr. Wirz's record makes his agenda clear. Since June 2016, he has written 15 stories for which he was the sole reporter, four of which are negative stories about Highland. He has not written any negative pieces focused on any other investment managers. Despite our repeated efforts to provide Mr. Wirz with the actual facts, Mr. Wirz refuses to present an accurate picture of Highland. Interestingly he is the only WSJ author to write a negative article about Highland in the past ten years. The facts below are those that Mr. Wirz did not deem relevant in his latest printed attack on Highland's business.

In stark contrast to Mr. Wirz's current journalistic agenda, his earlier writings from 2004 to 2011 about our firm lauded Highland's "legal judo" for the benefit of its investors. His tone radically changed in 2012 once he started using Patrick Daugherty, a former Highland portfolio manager, as a primary information source. Mr. Daugherty resigned and then embarked on a defamatory crusade when Highland rejected his exorbitant compensation demands in February 2012. In March 2012, Mr. Wirz published his first negative article about Highland on an unrelated dispute. The article quotes "people close to the matter," which the facts indicate was none other than Mr. Daugherty.

Two months later, when Mr. Daugherty's dispute with Highland went to court, Mr. Wirz's first article on the dispute further relied on Mr. Daugherty's skewed portrayal of Highland. In the resulting 2014 trial, the jury cleared Highland of Mr. Daugherty's allegations of mismanagement during the financial crisis, while Mr. Daugherty himself was found to be in breach of his fiduciary duties and ordered to pay Highland \$3.2 million dollars. Most notably, the court put in place an injunction ordering Mr. Daugherty to cease disclosing Highland's confidential information. Despite these findings, Mr. Wirz continued to use Mr. Daugherty as a primary source in biased reporting about Highland's business, including with respect to matters wholly unrelated to Mr. Daugherty.

Astoundingly, Mr. Daugherty's misconduct was not deterred by the injunction against him. As recently as 2016, the court found Mr. Daugherty lied under oath about recent violations of the injunction. After seven different court hearings in which the judge repeatedly warned Mr. Daugherty of the consequences of his violations, **the court ultimately found Mr. Daugherty in contempt of court and sentenced him to 38 days in jail.**

In a separate set of violations still under investigation, Mr. Daugherty leaked confidential information to the WSJ. On Friday August 12, 2016, Highland provided the WSJ with a copy of the injunction order prohibiting Mr. Daugherty from leaking Highland's confidential information. The following Monday, Mr. Wirz again was on the phone with Mr. Daugherty discussing Highland's confidential information. The court ordered Mr. Wirz and the WSJ to provide information about these conversations to Highland, which the WSJ is appealing. Despite Mr. Daugherty having been found to have lied under oath about Highland, **Mr. Wirz confirmed in writing as recently as yesterday that he continues to use Mr. Daugherty as a source in his Highland-related coverage**, including the misleading November 27, 2017 WSJ article.

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~~Mr. Terry was terminated for improper sexual relations, poor performance and numerous compliance violations, among other things. Mr. Wirz's recent article states "Highland... used pretexts and false allegations of a sexual relationship with a coworker to fire [Mr. Terry]." Terry's own pleadings state "Terry did not have a sexual relationship with any of his subordinates." While Mr. Wirz would leave his readers believing Highland maliciously made up Mr. Terry's affairs as some form of retribution, Mr. Terry admitted, both at deposition and in the arbitration, that "I had an affair with Ms. [omitted] from mid-2013 to the end of 2014." The affair severely impacted the junior female employee's career and was indicative of a pattern of behavior that resulted in his ultimate termination. Once Highland proved that Mr. Terry lied in his pleadings about one of his affairs, we did not want to further disrupt the lives of its former employees nor did we need to prove anything else. While Highland continues to assert that Mr. Terry had at least three intra-office affairs, the WSJ's observation that Highland did not present enough evidence of additional affairs is not relevant in light of Mr. Terry's admission. Additionally, since Mr. Terry's departure, several additional women have come forward with allegations of sexual harassment and unwanted advances by Mr. Terry. Finally, numerous senior persons at Highland recommended that he be fired for both his sexual misconduct and numerous compliance violations. This was not a personal battle between Mr. Terry and Mr. Dondero. Highland was compelled to terminate Mr. Terry for his overall pattern of misconduct.~~

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~~Furthermore, though Mr. Terry testified that Highland relied on him as the primary driver of its CLO business, Mr. Terry failed to raise a single dollar of third party CLO equity for his Acis business, which was his key job responsibility. Mr. Terry's self aggrandizing testimony to the contrary, Highland helped to create the CLO industry years before Mr. Terry arrived and he merely filled a senior vacancy on the structured products team. Notably, Highland has continued to grow its CLO business in his absence.~~

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Mr. Wirz, as part of his agenda, also mischaracterized several unrelated disputes. For example, Mr. Wirz focused on a prior arbitration regarding the Highland Credit Strategies Fund. The article focused on a small part of

¹ Highland is prohibited by agreement from disclosing the exact amount.

numerous issues raised by the wind down of this financial crisis-era hedge fund. Mr. Wirz refused to mention that Highland voluntarily bought out the remaining portfolio assets at the request and for the benefit of the investors. As part of the transaction, the lawsuit was resolved and the investors agreed to vacate and nullify the award against Highland. One investor requested WSJ retract an inaccurate, negative statement that was attributed to the investor in the Mr. Wirz's 2016 article about the dispute. The Credit Strategies Fund's final resolution not only maximized returns to investors, but also generated \$10 million in value to Highland. However, these additional facts did not fit Mr. Wirz's narrative.

Mr. Wirz's Highland narrative does not have much room for either facts or context. Since Highland's founding in 1993, approximately 25 partners have come and gone from the firm. While Mr. Wirz paints Highland as constantly litigating against its former partners, Highland ~~only has had two such disputes in 24 years: Mr. Daugherty and Mr. Terry.~~ In Mr. Daugherty's case, a jury found him to have breached his fiduciary duty and a judge held him in contempt of court and sentenced him to jail. **Mr. Daugherty also paid a \$3.2 million judgment to Highland, and continues to owe additional amounts.** Mr. Wirz neglected to mention any of these facts about his source. ~~The second dispute, Mr. Terry, is on going and Highland's numerous counterclaims against Mr. Terry will be substantially larger than the initial arbitration award. While Highland regrets having to litigate with former employees, the firm cannot reward extortion behavior.~~

Mr. Wirz also refuses to cover any positive legal or other news about Highland. Though he states that Highland has fought with investors since the financial crisis, he fails to mention that Highland was vindicated in every case ultimately decided by a court. Mr. Wirz mentions Highland's financial crisis-era fights with counterparties, but fails to mention that Highland has achieved over \$700 million in judgments and settlements *for* its investors. He also omits key industry context: despite these legal proceedings, Highland's litigation docket is less than similarly situated asset managers and is not particularly litigious.

Of the recent interaction with Mr. Wirz, Andrew Merrill, a senior partner at a financial communications firm involved in the matter whose clients manage over \$10 trillion, said, "In all the media interactions we've witnessed, this was among the most biased, unfair treatments we have ever seen, especially considering Highland's willingness to engage in constructive dialogue and numerous attempts at information sharing."

Equipped with that background, we urge you to address this behavior taking place in your newsroom. It certainly defies the standards of your publication and undermines the integrity of your journalistic undertakings. While we believe this comprehensive account of the treatment we have received from Mr. Wirz and the various editors responsible for his work sheds ample light on the issues at hand here, we are happy to discuss the situation with you further to help you better address these transgressions.

Further, since we were deprived of the opportunity to fairly and accurately respond to the serious allegations raised by Mr. Wirz in the recent article, we plan to make this communication public to correct the inaccurate information that was disseminated by the *Wall Street Journal* about Highland.

We appreciate your consideration of these matters.

Sincerely,

James Dondero
President and Co-founder
Highland Capital Management

EXHIBIT 3

Fill in this information to identify the case:

Debtor Highland Capital Management, L.P.

United States Bankruptcy Court for the: Northern District of Texas
 (State)

Case number 19-34054

**Official Form 410
 Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** Acis Capital Management, LP
 Name of the current creditor (the person or entity to be paid for this claim)
 Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
Acis Capital Management, LP 3110 Webb Ave Suite 203 Dallas, TX 75205, United States Contact phone <u>214-556-3405</u> Contact email <u>josh@aciscm.com</u>	 Contact phone _____ Contact email _____

(see summary page for notice party information)
 Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ Not known at this time. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

Contract, negligence

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/08/2020
MM / DD / YYYY

/s/ Joshua N Terry
 Signature

Print the name of the person who is completing and signing this claim:

Name Joshua N Terry
First name Middle name Last name

Title President of General Partner

Company Acis Capital Management LP
 Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (877) 573-3984 | International (310) 751-1829

Debtor: 19-34054 - Highland Capital Management, L.P. District: Northern District of Texas, Dallas Division		
Creditor: Acis Capital Management, LP 3110 Webb Ave Suite 203 Dallas, TX, 75205 United States Phone: 214-556-3405 Phone 2: Fax: Email: josh@aciscm.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Disbursement/Notice Parties: Brian P. Shaw Brian P. Shaw 500 N. Akard St. Suite 1900 Dallas, Texas, 75201 United States Phone: 2142392707 Phone 2: Fax: E-mail: shaw@roggedunngroup.com		
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: Contract, negligence	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: Not known at this time	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Joshua N Terry on 08-Apr-2020 5:39:59 p.m. Eastern Time Title: President of General Partner Company: Acis Capital Management LP		

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK



-----X
NWCC, LLC, :

Plaintiff, :

-against- :

HIGHLAND CLO MANAGEMENT, LLC; :
HIGHLAND CAPITAL MANAGEMENT, L.P.; :
ACIS CLO 2014-3 LTD.; :
HIGHLAND CLO 2014-3R LTD.; :
HIGHLAND CLO 2014-3R LLC; :
HIGHLAND HCF ADVISOR, LTD., as Trustee for :
HIGHLAND CLO TRUST; :
HIGHLAND CLO MANAGEMENT HOLDINGS, :
L.P.; :
HIGHLAND CLO MANAGEMENT GP, LLC; and :
HIGHLAND HCF ADVISOR, LTD. :

Defendants. :
-----X

Index No. _____

COMPLAINT

Plaintiff NWCC, LLC (“Plaintiff” or “NWCC”), by counsel, as and for its Complaint against Highland CLO Management, LLC, Highland Capital Management, L.P., ACIS CLO 2014-3 Ltd., Highland CLO 2014-3R Ltd., Highland CLO 2014-3R LLC, Highland HCF ADVISOR, Ltd., as Trustee for Highland CLO Trust, Highland CLO Management Holdings, L.P., Highland CLO Management GP, LLC, and Highland HCF ADVISOR, Ltd. (collectively “Defendants” or “Highland”), hereby alleges, upon personal knowledge as to matters relating to itself and upon information and belief as to the remaining allegations, as follows:

NATURE OF THE ACTION

1. This action arises from Defendants' failure to pay: (a) upfront amounts, (b) guaranteed earnings, and (c) external counsel expenses as contractually required pursuant to the Master Repurchase Agreement and the supplements, annexes, schedules and confirmations thereto (the "Master Agreement"). See Master Agreement, attached hereto as Exhibit A, and Conforming Transaction Master Confirmation, attached hereto as Exhibit B.

2. Defendants are unequivocally and unconditionally liable to NWCC for these breaches of the parties' Master Agreement and all outstanding sums that they have failed to pay as a result of those breaches.

3. As of the date of this filing, Defendants have failed to cure these breaches. As a result of the breaches, NWCC brings this action against Defendants to collect amounts due under the Master Agreement, as well as its attorneys' fees.

THE PARTIES

4. Plaintiff NWCC, LLC is a Delaware limited liability company with its principal place of business located at 375 Park Avenue, 36th Floor, New York, New York 10152. NWCC, LLC is a wholly owned subsidiary of Nearwater Capital, L.P. ("Nearwater").

5. Upon information and belief, Defendant Highland CLO Management, LLC is a Delaware limited liability company with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

6. Upon information and belief, Defendant Highland Capital Management, L.P. ("Highland") is a Delaware limited partnership with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

7. Upon information and belief, Defendant ACIS CLO 2014-3 Ltd. is a limited liability company registered in the Cayman Islands with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

8. Upon information and belief, Defendant Highland CLO 2014-3R Ltd. is a limited liability company registered in the Cayman Islands with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

9. Upon information and belief, Defendant Highland CLO 2014-3R LLC is a Delaware limited liability company with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

10. Upon information and belief, Defendant Highland HCF Advisor, Ltd., as Trustee for Highland CLO Trust, is a limited liability company registered in the Cayman Islands with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

11. Upon information and belief, Defendant Highland CLO Management Holdings, L.P. is a Delaware limited partnership with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

12. Upon information and belief, Defendant Highland CLO Management GP, LLC is a Delaware limited liability company with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

13. Upon information and belief, Defendant Highland HCF Advisor, Ltd. is a limited liability company registered in the Cayman Islands with its principal place of business located at 300 Crescent Court, #700, Dallas, Texas 75201.

JURISDICTION AND VENUE

14. This Court has personal jurisdiction over Defendants because they consented to the jurisdiction of this Court in Annex I, Section 11 of the Master Agreement, as follows:

Submission to Jurisdiction. Each party irrevocably and unconditionally (i) submits to the exclusive jurisdiction of any United States Federal or New York State court sitting in Manhattan, and any appellate court from any such court, solely for the purpose of any suit, action or proceeding brought to enforce its obligations under the Master Agreement or relating in any way to the Master Agreement or any Transaction under the Master Agreement and (ii) waives, to the fullest extent it may effectively do so, any defense of an inconvenient forum to the maintenance of such action or proceeding in any such court and any right of jurisdiction on account of its place of residence or domicile.

15. Venue is proper within this judicial county, pursuant to CPLR § 501 and Annex I, Section 11 of the Master Agreement.

FACTUAL BACKGROUND

A. The Facility

16. On or around November 28, 2017, Managing Partner of Nearwater, James Peterson, was introduced to Frank Waterhouse, Chief Financial Officer of Highland.

17. Mr. Peterson first corresponded with Mr. Waterhouse through email on November 28, 2017, and, thereafter, coordinated a conference call for December 1, 2017 (the “Initial Call”).

18. On the Initial Call was: Mr. Waterhouse, David Klos (Controller of Highland), Hunter Covitz (Managing Director of Highland), Mr. Peterson, Jane Cho (Managing Director of Nearwater), and William Yang (Director of Nearwater).

19. During the Initial Call, Mr. Peterson provided an overview of the type of financing transactions offered by Nearwater and, based upon the information provided by Mr. Peterson during the Initial Call, Highland expressed the desire to move forward, and a further meeting was scheduled between Mr. Peterson and Mr. Covitz in New York.

20. Mr. Peterson and Mr. Covitz met in the Nearwater offices in New York on or around December 7, 2017 (the “Initial Meeting”) and the details of the potential financing were discussed in greater detail, including discussion of potential costs associated with consummating the financing under the terms of a financing facility (the “Facility”) and other fees associated with the Facility.

21. After the Initial Meeting, a bilateral non-disclosure agreement was exchanged, negotiated and entered into by both parties on December 8, 2017 (the “NDA”). On or around December 11, 2017, a detailed term sheet (the “Term Sheet”) was provided to Highland. The Term Sheet contained the following language:

Upon receipt of a detailed invoice, the Seller [Highland] will pay all reasonable out-of-pocket costs and expenses incurred by the Buyer [Nearwater] (including, without limitation, all reasonable fees, disbursements and expenses of one external counsel) in connection with the negotiation of (a) a finalized term sheet relating to the Facility Documents, (b) the Master Agreement, the Master Confirmation and each Transaction Supplement (collectively, the “Facility Documents”), and (c) any other documents prepared in connection with the Facility Documents, in each case regardless of whether any Transaction is entered into under the Facility Documents. For the avoidance of doubt, all other costs and expenses (including any expenses incurred after the Purchase Date) incurred by the Buyer will be the sole responsibility of the Buyer.

22. On or around December 12, 2017, Mr. Peterson emailed Mr. Covitz, asking Mr. Covitz if it made sense to engage counsel to begin the drafting and production of the documents necessary to establish the Highland Facility. On the same day, Mr. Covitz responded “Yes, I think it makes sense” and requested that the documents be sent to Highland’s external counsel, as well as to Tim Cournoyer, Assistant General Counsel of Highland, and Thomas Surgent, Chief Compliance Officer of Highland.

23. Over the next six weeks, NWCC and Highland negotiated the terms of the Facility. On January 26, 2018, NWCC and Highland agreed on and executed the final documents substantiating the Facility (the “Facility Documents”), which included the Master Agreement and

specific language in Annex I to the Master Agreement (the “Supplemental Terms and Conditions”) regarding the reimbursement of legal expenses set forth below:

Expenses. Upon receipt of a detailed invoice, the Seller shall pay all reasonable out-of-pocket costs and expenses incurred by the Buyer (including, without limitation, all reasonable fees, disbursements and expenses of one external counsel) in connection with the negotiation of (a) a finalized term sheet relating to the Facility Documents (as defined below), (b) the Master Agreement, the Conforming Transaction Master Confirmation and each Conforming Transaction Supplement (collectively, the “Facility Documents”), and (c) any other documents prepared in connection with the Facility Documents, in each case regardless of whether any Transaction is entered into under the Facility Documents. For the avoidance of doubt, all other costs and expenses (including any expenses incurred after the Purchase Date) incurred by the Buyer shall be the sole responsibility of the Buyer.

B. The Upfront Amount

24. On or around January 17, 2018, Highland requested a borrowing under the Facility, and NWCC agreed.

25. On January 29, 2018, NWCC and Highland executed the transaction supplement (the “Conforming Transaction Supplement”) which outlined the terms on which NWCC would advance funds to Highland under the Facility. *See* Conforming Transaction Supplement, attached hereto as Exhibit C.

26. Under the Conforming Transaction Supplement, NWCC committed to advance funds against the delivery of securities on February 1, 2018.

27. As consideration for NWCC’s commitment under the Facility, Highland agreed to pay (a) an upfront fee (the “Upfront Amount”) equal to \$87,784.64, and (b) periodic interest on the amount to be advanced. *See* Ex. C, and the Upfront Amount Invoice, attached hereto as Exhibit D.

C. The Default

28. On or around January 31, 2018, Mr. Covitz called Mr. Peterson and apprised him that Highland would not deliver the securities per the terms of the Conforming Transaction Supplement and that Highland would not meet its obligations under the Master Agreement due to an adverse ruling in a pending litigation.

29. This was the first time that NWCC was made aware of the pending litigation and any potential impact that it might have on Highland's ability to perform its contractual obligations.

30. On February 1, 2018, Highland defaulted on their contractual obligations under the Master Agreement by failing to deliver securities in connection therewith.

D. The External Counsel Fees & Upfront Amount

31. On February 5, 2018, NWCC sent Highland an invoice for \$25,548.25 for costs incurred by NWCC's external counsel in connection with drafting of the Facility Documents. *See* External Counsel Fees Invoice, attached hereto as Exhibit E.

32. NWCC made repeated attempts to collect on amounts owed by Highland under the terms of the Facility, including:

- a. On or around February 5, 2018, NWCC invoiced Highland for \$25,548.25 in external counsel fees (the "External Counsel Fees") incurred by NWCC in connection with the drafting and production of the Facility Documents.
- b. On or around February 13, 2018, NWCC contacted Highland via email regarding the unpaid status of the External Counsel Fees and Mr. Covitz replied, "thanks, I will look at the invoice and get back to asap."

- c. On or around March 15, 2018, NWCC again contacted Highland regarding the unpaid status of the External Counsel Fees.
- d. From March 2018 to July 2018, NWCC made multiple attempts by phone and email to contact and correspond with Highland regarding the unpaid status of the External Counsel Fees.

33. On or around June 12, 2018, Ms. Helen Kim of Highland contacted Cadwalader, Wickersham & Taft LLP, the outside law firm retained by NWCC to prepare the Facility Documents, to attempt to process the External Counsel Fees. Ms. Kim then contacted NWCC, saying: “We will be remitting payment directly to Cadwalader.”

34. On July 17, 2018, NWCC sent Highland an invoice for \$87,784.64—the Upfront Amount promised under the Master Agreement—and Mr. Covitz replied, “I see this Jim, sorry for the delay. Figuring it out now, will be back to you this week. I know we’ve had this CWT invoice for too long.”

35. Since January 31, 2018, Highland has repeatedly acknowledged its obligation to pay such amounts, yet, Highland has failed to remit any funds due NWCC under the Master Agreement.

36. The Master Agreement with Highland remains in place and Highland remains in default of their obligations thereunder.

37. NWCC declared an Event of Default based upon Highland’s failure to perform its obligations under the Master Agreement.

38. NWCC, as the nondefaulting party, is entitled to its attorneys’ fees in connection with this action based Highland’s default under the Master Agreement, and pursuant to Paragraph 11(g) of the same, which states:

The defaulting party shall be liable to the nondefaulting party for (i) the amount of all reasonable legal or other expenses incurred by the nondefaulting party in connection with or as a result of an Event of Default, (ii) damages in an amount equal to the cost (including all fees, expenses and commissions) of entering into replacement transactions and entering into or terminating hedge transactions in connection with or as a result of an Event of Default, and (iii) any other loss, damages, cost or expense directly arising or resulting from the occurrence of an Event of Default in respect of a Transaction.

FIRST CAUSE OF ACTION
(Breach of Contract – The Master Agreement)

39. NWCC repeats and re-alleges each and every allegation contained in the prior paragraphs of the Complaint as if fully set forth herein.

40. The Master Agreement is a valid and enforceable contract.

41. Defendants executed and delivered the Master Agreement and, therefore, are bound by its terms.

42. NWCC fully performed its obligations under the Master Agreement.

43. Defendants breached the Master Agreement by refusing, failing, and/or neglecting to pay the sums due NWCC under the Agreement.

44. Under the Master Agreement, Defendants unconditionally agreed to:

Expenses. Upon receipt of a detailed invoice, the Seller shall pay all reasonable out-of-pocket costs and expenses incurred by the Buyer (including, without limitation, all reasonable fees, disbursements and expenses of one external counsel) in connection with the negotiation of (a) a finalized term sheet relating to the Facility Documents (as defined below), (b) the Master Agreement, the Conforming Transaction Master Confirmation and each Conforming Transaction Supplement (collectively, the “Facility Documents”), and (c) any other documents prepared in connection with the Facility Documents, in each case regardless of whether any Transaction is entered into under the Facility Documents. For the avoidance of doubt, all other costs and expenses (including any expenses incurred after the Purchase Date) incurred by the Buyer shall be the sole responsibility of the Buyer.

45. Defendants breached the Conforming Transaction Supplement to the Master Agreement by refusing, failing, and/or neglecting to pay the sums due NWCC under the Master Agreement.

46. Under the Conforming Transaction Supplement, Defendants unconditionally agreed to pay NWCC the Upfront Amount on February 1, 2018.

47. NWCC is entitled to judgment against Defendants for the foregoing amounts due and owing to NWCC pursuant to the Master Agreement, together with accrued pre- and post-judgment interest and attorneys' fees, costs and expenses.

SECOND CAUSE OF ACTION
(Accounts Stated)

48. NWCC repeats and re-alleges each and every allegation contained in the prior paragraphs of the Complaint as if fully set forth herein.

49. On or around February 1, 2018, during the regular course of business, NWCC sent Highland an invoice for \$87,784.64 for the Upfront Amount due under the Master Agreement.

50. Highland accepted and retained this invoice for a reasonable period of time without objection.

51. On or around February 5, 2018, during the regular course of business, NWCC sent Highland an invoice for \$25,548.25 for costs incurred by NWCC's external counsel in connection with drafting of the Facility Documents.

52. Highland accepted and retained this invoice for a reasonable period of time without objection.

53. On or around June 12, 2018, Highland admitted that it owed the invoiced amount for the External Counsel Fees and stated that it would remit payment.

54. On or around July 17, 2018, Highland apologized to NWCC for the delay in remitting the invoiced amount for the External Counsel Fees.

55. NWCC is entitled to judgment against Defendants for the Upfront Amount and the External Counsel Fees due and owing to NWCC pursuant to the invoices provided to Defendants, which they accepted without objection, together with accrued pre- and post-judgment interest and attorneys' fees, costs and expenses.

WHEREFORE, for the foregoing reasons, Plaintiff NWCC, LLC respectfully requests that it be granted judgment against Defendants Highland CLO Management, LLC, Highland Capital Management, L.P., ACIS CLO 2014-3 Ltd., Highland CLO 2014-3R Ltd., Highland CLO 2014-3R LLC, Highland HCF ADVISOR, Ltd., as Trustee for Highland CLO Trust, Highland CLO Management Holdings, L.P., Highland CLO Management GP, LLC, and Highland HCF ADVISOR, Ltd., as follows:

- (a) On NWCC's First Cause of Action against Defendants, awarding it damages exceeding \$275,000, along with interest;
- (b) On NWCC's Second Cause of Action against Defendants, awarding it damages of \$113,332.89, along with interest;
- (c) NWCC's attorneys' fees, costs and expenses incurred in connection with this action pursuant to Paragraph 11(g) of the Master Agreement; and
- (d) Awarding such other and further relief as the Court deems just, proper and equitable.

Dated: August 22, 2018

Respectfully submitted,

By: /s/ Michael A. Battle

Michael A. Battle

BARNES & THORNBURG LLP

1717 Pennsylvania Ave. N.W.

Suite 500

Washington, D.C. 20006-4623

Tel: (202) 371-6350

Fax: (202) 289-1330

Michael.Battle@btlaw.com

Attorney for Plaintiff NWCC, LLC



THIRD AMENDED AND RESTATED SUB-ADVISORY AGREEMENT

by and between

ACIS CAPITAL MANAGEMENT, L.P.

and

HIGHLAND CAPITAL MANAGEMENT, L.P.

Dated March 17, 2017

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**THIRD AMENDED AND RESTATED
SUB-ADVISORY AGREEMENT**

This Third Amended and Restated Sub-Advisory Agreement (as amended, modified, waived, supplemented or restated from time to time in accordance with the terms hereof, this “Agreement”), dated as of March 17, 2017, is entered into by and between Acis Capital Management, L.P., a Delaware limited partnership, as the management company hereunder (in such capacity, the “Management Company”), and Highland Capital Management, L.P., a Delaware limited partnership (“Highland”), as the sub-advisor hereunder (in such capacity, the “Sub-Advisor” and together with the Management Company, the “Parties”).

RECITALS

WHEREAS, the Parties entered into that certain Second Amended and Restated Sub-Advisory Agreement dated July 29, 2016 to be effective January 1, 2016 (the “Existing Agreement”);

WHEREAS, the Management Company from time to time has entered and will enter into portfolio management agreements, investment management agreements and/or similar agreements (each such agreement as amended, modified, waived, supplemented or restated, subject in each case to the requirements of Section 8, a “Management Agreement”) and related indentures, credit agreements, collateral administration agreements, service agreements or other agreements (each such agreement as amended, modified, waived, supplemented or restated, subject in each case to the requirements of Section 8, a “Related Agreement”), in each case as set forth on Appendix A hereto, as amended from time to time, pursuant to which the Management Company has agreed to provide portfolio and/or investment management services to certain funds and accounts and to certain collateralized loan obligation issuers and to borrowers in certain short-term or long-term warehouse or repurchase facilities in connection therewith (any such transaction, a “Transaction”, any fund, account, issuer, warehouse borrower or repurchase agreement seller in respect of any such Transaction, an “Account”, and the assets collateralizing each such Transaction and/or comprising the portfolio of such Account, a “Portfolio”);

WHEREAS, the Management Company and the Sub-Advisor desire to enter into this Agreement in order to permit the Sub-Advisor to provide certain limited services to assist the Management Company in performing certain obligations under the Management Agreements and Related Agreements;

WHEREAS, the Parties now desire to amend and restate the Existing Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, and the receipt of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree that the Existing Agreement is hereby amended, restated and replaced in its entirety as follows.

1. Appointment; Limited Scope of Services.

(a) Highland is hereby appointed as Sub-Advisor to the Management Company for the purpose of assisting the Management Company in managing the Portfolios of each Account

pursuant to the related Management Agreement and Related Agreements, in each case that have been included in the scope of this Agreement pursuant to the provisions of Section 8, subject to the terms set forth herein and subject to the supervision of the Management Company, and Highland hereby accepts such appointment.

(b) Without limiting the generality of the foregoing, the Sub-Advisor shall, during the term and subject to the provisions of this Agreement:

(i) make recommendations to the Management Company in its capacity as portfolio manager, investment manager or any similar capacity for any applicable Account as to the general composition and allocation of the Portfolio with respect to such Account among various types of securities, the nature and timing of the changes therein and the manner of implementing such changes, including recommendations as to the specific loans and other assets to be purchased, retained or sold by any such Account;

(ii) place orders with respect to, and arrange for, any investment by or on behalf of such Account (including executing and delivering all documents relating to such Account's investments on behalf of such Account or the Management Company, as applicable), upon receiving a proper instruction from the Management Company;

(iii) identify, evaluate, recommend to the Management Company, in its capacity as portfolio manager for such Account, and, if applicable, negotiate the structure and/or terms of investment opportunities within the specific investment strategy of the Management Company for such Account;

(iv) assist the Management Company in its capacity as portfolio manager for such Account in performing due diligence on prospective Portfolio investments by such Account;

(v) provide information to the Management Company in its capacity as portfolio manager for such Account regarding any investments to facilitate the monitoring and servicing of such investments and, if requested by the Management Company, provide information to assist in monitoring and servicing other investments by such Account

(vi) assist and advise the Management Company in its capacity as portfolio manager for such Account with respect to credit functions including, but not limited to, credit analysis and market research and analysis; and

(vii) assist the Management Company in performing any of its other obligations or duties as portfolio manager for such Account.

The foregoing responsibilities and obligations are collectively referred to herein as the "Services."

Notwithstanding the foregoing, all investment decisions will ultimately be the responsibility of, and will be made by and at the sole discretion of, the Management Company. Furthermore, the

parties acknowledge and agree that the Sub-Advisor shall be required to provide only the services expressly described in this Section 1(b), and shall have no responsibility hereunder to provide any other services to the Management Company or any Transaction, including, but not limited to, administrative, management or similar services.

(c) The Sub-Advisor agrees during the term hereof to furnish the Services on the terms and conditions set forth herein and subject to the limitations contained herein. The Sub-Advisor agrees that, in performing the Services, it will comply with all applicable obligations of the Management Company set forth in the Management Agreements and the Related Agreements. In addition, with respect to any obligation that would be part of the Services but for the fact that the relevant Management Agreement or Related Agreement does not permit such obligation to be delegated by the Management Company to the Sub-Advisor, the Sub-Advisor, upon request in writing by the Management Company, shall work in good faith with the Management Company and shall use commercially reasonable efforts to assist the Management Company in satisfying all such obligations.

2. Compensation.

(a) As compensation for its performance of its obligations as Sub-Advisor under this Agreement in respect of any Transaction, the Sub-Advisor will be entitled to receive the Sub-Advisory Fee payable thereto. The “Sub-Advisory Fee” shall be payable in accordance with Appendix A attached hereto, as such appendix may be amended by the Parties from time to time.

(b) Each party shall bear its own expenses; *provided* that the Management Company shall reimburse the Sub-Advisor for any and all costs and expenses that are properly Company Expenses or that may be borne by the Management Company under the Management Company LLC Agreement.

(c) Notwithstanding anything to the contrary contained herein, if on any date the Management Company determines that it would not have sufficient funds available to it to make a payment of Indebtedness, it shall have the right to defer any and all amounts payable to the Sub-Advisor pursuant to this Agreement, including any fees and expenses; *provided* that the Management Company shall promptly pay all such amounts on the first date thereafter that sufficient amounts exist to make payment thereof.

(d) From time to time, the Management Company may enter into sub-advisory agreements with certain management companies on similar terms to this Agreement. Promptly following the receipt of any fees pursuant to such sub-advisory agreements, the Management Company shall pay 100% of such fees to the Sub-Advisor.

3. Representations and Warranties.

(a) Each of the Management Company and the Sub-Advisor represents and warrants, as to itself only, that:

(i) it has full power and authority to execute and deliver, and to perform its obligations under, this Agreement;

(ii) this Agreement has been duly authorized, executed and delivered by it and constitutes its valid and binding, obligation, enforceable in accordance with its terms except as the enforceability hereof may be subject to (i) bankruptcy, insolvency, reorganization moratorium, receivership, conservatorship or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding, in equity or at law);

(iii) no consent, approval, authorization or order of or declaration or filing with any government, governmental instrumentality or court or other person or entity is required for the execution of this Agreement or the performance by it of its duties hereunder, except such as have been duly made or obtained; and

(iv) neither the execution and delivery of this Agreement nor the fulfillment of the terms hereof conflicts with or results in a breach or violation of any of the terms or provisions of, or constitutes a default under, (A) its constituting and organizational documents; (B) the terms of any material indenture, contract, lease, mortgage, deed of trust, note, agreement or other evidence of indebtedness or other material agreement, obligation, condition, covenant or instrument to which it is a party or by which it is bound; (C) any statute applicable to it; or (D) any law, decree, order, rule or regulation applicable to it of any court or regulatory, administrative or governmental agency, body of authority or arbitration having or asserting jurisdiction over it or its properties, which, in the case of clauses (B) through (D) above, would have a material adverse effect upon the performance of its duties hereunder.

(b) The Sub-Advisor represents and warrants to the Management Company that it is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the "Advisers Act").

(c) The Management Company acknowledges that it has received Part 2 of Highland Capital Management, L.P.'s Form ADV filed with the Securities and Exchange Commission. The Sub-Advisor will provide to the Management Company an updated copy of Part 2 of its Form ADV promptly upon any amendment to such Form ADV being filed with the Securities and Exchange Commission.

4. Standard of Care; Liability; Indemnification.

(a) Sub-Advisor Standard of Care. Subject to the terms and provisions of this Agreement, the Management Agreements and/or the Related Agreements, as applicable, the Sub-Advisor will perform its obligations hereunder and under the Management Agreements and/or the Related Agreements in good faith with reasonable care using a degree of skill and attention no less than that which the Sub-Advisor uses with respect to comparable assets that it manages for others and, without limiting the foregoing, in a manner which the Sub-Advisor reasonably believes to be consistent with the practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Portfolios, in each case except as expressly provided otherwise under this Agreement, the Management Agreements and/or the

Related Agreements. To the extent not inconsistent with the foregoing, the Sub-Advisor will follow its customary standards, policies and procedures in performing its duties hereunder, under the Management Agreements and/or under the Related Agreements.

(b) Exculpation. To the fullest extent permitted by law, none of the Sub-Advisor, any of its affiliates, and any of their respective managers, members, principals, partners, directors, officers, shareholders, employees and agents (but shall not include the Management Company, its subsidiaries or member(s) and any managers, members, principals, partners, directors, officers, shareholders, employees and agents of the Management Company or its subsidiaries or member(s) (in their capacity as such)) (each a “Covered Person”) will be liable to the Management Company, any Member, any shareholder, partner or member thereof, any Account (or any other adviser, agent or representative thereof), or to any holder of notes, securities or other indebtedness issued by any Account (collectively, the “Management Company Related Parties”), for (i) any acts or omissions by such Covered Person arising out of or in connection with the provision of the Services hereunder, for any losses that may be sustained in the purchase, holding or sale of any security or debt obligation by any Account, or as a result of any activities of the Sub-Advisor, the Management Company or any other adviser to or agent of the Account or any other sub-advisor appointed by the Management Company to provide portfolio management services to any other delegatee of the Management Company or any other person or entity, unless such act or omission was made in bad faith or is determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, to be the result of gross negligence or to constitute fraud or willful misconduct (as interpreted under the laws of the State of Delaware) (each, a “Disabling Conduct”) on the part of such Covered Person, (ii) any mistake, gross negligence, misconduct or bad faith of any employee, broker, administrator or other agent or representative of the Sub-Advisor, *provided* that such employee, broker, administrator or agent was selected, engaged or retained by or on behalf of the Sub-Advisor with reasonable care, or (iii) any consequential (including loss of profit), indirect, special or punitive damages. To the extent that, at law or in equity, any Covered Person has duties (including fiduciary duties) and liabilities relating thereto to any Management Company Related Party, no Covered Person acting under this Agreement shall be liable to such Management Company Related Party for its good-faith reliance on the provisions of this Agreement.

To the fullest extent permitted by law, no Covered Person shall have any personal liability to any Management Company Related Party solely by reason of any change in U.S. federal, state or local or foreign income tax laws, or in interpretations thereof, as they apply to any such Management Company Related Party, whether the change occurs through legislative, judicial or administrative action.

Any Covered Person in its sole and absolute discretion may consult legal counsel, accountants or other advisers selected by it, and any act or omission taken, or made in good faith by such Person on behalf of the Management Company or in furtherance of the business of the Management Company in good-faith reliance on and in accordance with the advice of such counsel, accountants or other advisers shall be full justification for the act or omission, and to the fullest extent permitted by applicable law, no Covered Person shall be liable to any Management Company Related Party in so acting or omitting to act if such counsel, accountants or other advisers were selected, engaged or retained with reasonable care

(c) Indemnification. The Management Company shall and hereby does, to the fullest extent permitted by applicable law, indemnify and hold harmless any Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings, judgments, assessments, actions and other liabilities, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or unliquidated (“Claims”), that may accrue to or be incurred by any Covered Person, or in which any Covered Person may become involved, as a party or otherwise, or with which any Covered Person may be threatened, relating to or arising out of the Services, the activities of the Management Company Related Parties, or activities undertaken in connection with the Management Company Related Parties, or otherwise relating to or arising out of this Agreement, any Management Agreement and/or the Related Documents, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and attorneys’ fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a “Proceeding”), whether civil or criminal (all of such Claims, amounts and expenses referred to therein are referred to collectively as “Damages”), except to the extent that it shall have been determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, that such Damages arose primarily from Disabling Conduct of such Covered Person. The termination of any Proceeding by settlement, judgment, order, conviction or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that any Damages relating to such settlement, judgment, order, conviction or plea of *nolo contendere* or its equivalent or otherwise relating to such Proceeding arose primarily from Disabling Conduct of any Covered Persons.

Expenses (including attorneys’ fees) incurred by a Covered Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder may be advanced by the Management Company prior to the final disposition thereof upon receipt of a written undertaking by or on behalf of the Covered Person to repay the amount advanced to the extent that it shall be determined ultimately by a court of competent jurisdiction that the Covered Person is not entitled to be indemnified hereunder. The right of any Covered Persons to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which the Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall be extended to the Covered Person’s successors, assigns and legal representatives. Any judgments against the Management Company and/or any Covered Persons in respect of which such Covered Person is entitled to indemnification shall first be satisfied from the assets of the Management Company, including Drawdowns, before such Covered Person is responsible therefor.

Notwithstanding any provision of this Agreement to the contrary, the provisions of this Section 4(c) shall not be construed so as to provide for the indemnification of any Covered Person for any liability (including liability under Federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent (but only to the extent) that such indemnification would be in violation of applicable law, but shall be construed so as to effectuate the provisions of this Section 4(c) to the fullest extent permitted by law

(d) Other Sources of Recovery etc. The indemnification rights set forth in Section 4(c) are in addition to, and shall not exclude, limit or otherwise adversely affect, any other indemnification or similar rights to which any Covered Person may be entitled. If and to the extent that other sources of recovery (including proceeds of any applicable policies of insurance or

indemnification from any Person in which any of the Transactions has an investment) are available to any Covered Person, such Covered Person shall use reasonable efforts to obtain recovery from such other sources before the Company shall be required to make any payment in respect of its indemnification obligations hereunder; *provided* that, if such other recovery is not available without delay, the Covered Person shall be entitled to such payment by the Management Company and the Management Company shall be entitled to reimbursement out of such other recovery when and if obtained

(e) Rights of Heirs, Successors and Assigns. The indemnification rights provided by Section 4(c) shall inure to the benefit of the heirs, executors, administrators, successors and assigns of each Covered Person

(f) Reliance. A Covered Person shall incur no liability to any Management Company Related Party in acting upon any signature or writing reasonably believed by him, her or it to be genuine, and may rely in good faith on a certificate signed by an officer of any Person in order to ascertain any fact with respect to such Person or within such Person's knowledge. Each Covered Person may act directly or through his, her or its agents or attorneys.

(g) Rights Under Management Agreements and Related Agreements. The Management Company will ensure that the Sub-Advisor is provided substantially similar indemnification and exculpation rights as are afforded to the Management Company in its role as portfolio manager under any future Management Agreement or Related Agreement encompassed within the Services hereunder, and it is expressly acknowledged by the Parties that the Sub-Advisor may not consent to including a Management Agreement and the related Transaction and Related Agreements within the scope of this Agreement pursuant to Section 8 if such indemnification and exculpation rights are not reasonably acceptable to it.

5. Limitations on Employment of the Sub-Advisor; Conflicts of Interest.

(a) The services of the Sub-Advisor to the Management Company are not exclusive, and the Sub-Advisor may engage in any other business or render similar or different services to others including, without limitation, the direct or indirect sponsorship or management of other Transactions, investment-based accounts or commingled pools of capital, however structured, having investment objectives similar to those of the Management Company or the Accounts. Moreover, nothing in this Agreement shall limit or restrict the right of any manager, partner, officer or employee of the Sub-Advisor to engage in any other business or to devote his or her time and attention in part to any other business, whether of a similar or dissimilar nature to the Management Company or any Account, or to receive any fees or compensation in connection therewith.

(b) So long as this Agreement or any extension, renewal or amendment of this Agreement remains in effect, the Sub-Advisor shall be the only portfolio management sub-advisor for the Management Company. The Sub-Advisor assumes no responsibility under this Agreement other than to render the services called for hereunder. It is understood that directors, officers, employees, members and managers of the Management Company are or may become interested in the Sub-Advisor and its Affiliates as directors, officers, employees, partners, stockholders, members, managers or otherwise, and that the Sub-Advisor and directors, officers, employees,

partners, stockholders, members and managers of the Sub-Advisor and its Affiliates are or may become similarly interested in the Management Company as members or otherwise.

(c) The Management Company acknowledges that various potential and actual conflicts of interest may exist with respect to the Sub-Advisor as described in the Sub-Advisor's Form ADV Part 2A and as described in Appendix B hereto, and the Management Company expressly acknowledges and agrees to the provisions contained in such Appendix B, as amended from time to time with mutual consent of the Parties.

6. Termination; Survival.

(a) This Agreement may be terminated, in its entirety or with respect to any Management Agreement, at any time without payment of penalty, by the Management Company upon 30 days' prior written notice to the Sub-Advisor.

(b) This Agreement shall terminate automatically with respect to any Management Agreement on the date on which (i) such Management Agreement has been terminated (and, if required thereunder, a successor portfolio manager has been appointed and accepted) or discharged; or (ii) the Management Company is no longer acting as portfolio manager, investment manager or in a similar capacity (whether due to removal, resignation or assignment) under such Management Agreement and the Related Agreements. Upon the termination of this Agreement with respect to any Management Agreement the Management Company shall provide prompt notice thereof to the Sub-Advisor, and Appendix A hereto shall be deemed to be amended by deleting such Management Agreement and the Related Agreements related thereto.

(c) All accrued and unpaid financial and indemnification obligations with respect to any conduct or events occurring prior to the effective date of the termination of this Agreement shall survive the termination of this Agreement.

7. Cooperation with Management Company. The Sub-Advisor shall reasonably cooperate with the Management Company in connection with the Management Company's compliance with its policies and procedures relating to oversight of the Sub-Advisor. Specifically, the Sub-Advisor agrees that it will provide the Management Company with reasonable access to information relating to the performance of Sub-Advisor's obligations under this Agreement.

8. Management Agreements and Related Agreements. The Sub-Advisor's duty to provide Services in connection with any Management Agreement shall not commence until (a) Appendix A to this Agreement has been amended by mutual agreement of the Parties to include such Management Agreement and the related Account, fund and/or account and Related Agreements and (b) the Sub-Advisor acknowledges receipt of such Management Agreement and each Related Agreement. The Sub-Advisor shall not be bound to comply with any amendment, modification, supplement or waiver to any Management Agreement or any Related Agreement until it has received a copy thereof from the Management Company. No amendment, modification, supplement or waiver to any Management Agreement or Related Agreement that, when applied to the obligations and rights of the Management Company under such Management Agreement or Related Agreement, affects (i) the obligations or rights of the Sub-Advisor hereunder; (ii) the amount of priority of any fees or other amounts payable to the Sub-Advisor hereunder; or (iii) any

definitions relating to the matters covered in clause (i) or (ii) above, will apply to the Sub-Advisor under this Agreement unless in each such case the Sub-Advisor has consented thereto in writing (such consent not to be unreasonably withheld or delayed unless the Sub-Advisor determines in its reasonable judgment that such amendment, modification, supplement or waiver could have a material adverse effect on the Sub-Advisor).

9. Amendments; Assignments.

(a) Neither Party may assign, pledge, grant or otherwise encumber or transfer all or any part of its rights or responsibilities under this Agreement, in whole or in part, except (i) as provided in clauses (b) and (c) of this Section 9, without the prior written consent of the other Party and (ii) in accordance with the Advisers Act and other applicable law.

(b) Except as otherwise provided in this Section 9, the Sub-Advisor may not assign its rights or responsibilities under this Agreement unless (i) the Management Company consents in writing thereto and (ii) such assignment is made in accordance with the Advisers Act and other applicable law.

(c) The Sub-Advisor may, without satisfying any of the conditions of Section 9(a) other than clause (ii) thereof (so long as such assignment does not constitute an assignment within the meaning of Section 202(a)(1) of the Advisers Act), (1) assign any of its rights or obligations under this Agreement to an affiliate; *provided* that such affiliate (i) has demonstrated ability, whether as an entity or by its principals and employees, to professionally and competently perform duties similar to those imposed upon the Sub-Advisor pursuant to this Agreement and (ii) has the legal right and capacity to act as Sub-Advisor under this Agreement, or (2) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity; *provided* that, at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Sub-Advisor under this Agreement generally (whether by operation of law or by contract) and the other entity is a continuation of the Sub-Advisor in another corporate or similar form and has substantially the same staff; *provided*, further, that the Sub-Advisor shall deliver ten (10) Business Days' prior notice to the Management Company of any assignment or combination made pursuant to this sentence. Upon the execution and delivery of any such assignment by the assignee, the Sub-Advisor will be released from further obligations pursuant to this Agreement except to the extent expressly provided herein.

10. Advisory Restrictions. This Agreement is not intended to and shall not constitute an assignment, pledge or transfer of any Management Agreement or any part thereof. It is the express intention of the parties hereto that (i) the Services are limited in scope; and (ii) this Agreement complies in all respects with all applicable (A) contractual provisions and restrictions contained in each Management Agreement and each Related Agreement and (B) laws, rules and regulations (collectively, the "Advisory Restrictions"). If any provision of this Agreement is determined to be in violation of any Advisory Restriction, then the Services to be provided under this Agreement shall automatically without action by any person or entity be limited, reduced or modified to the extent necessary and appropriate to be enforceable to the maximum extent permitted by such Advisory Restriction.

11. Records; Confidentiality.

(a) The Sub-Advisor shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Management Company and its accountants and other agents at any time during normal business hours and upon not less than three (3) Business Days' prior notice; provided, that the Sub-Advisor shall not be obligated to provide access to any non-public information if it in good faith determines that the disclosure of such information would violate any applicable law, regulation or contractual arrangement.

(b) The Sub-Advisor shall follow its customary procedures to keep confidential any and all information obtained in connection with the services rendered hereunder that is either (a) of a type that would ordinarily be considered proprietary or confidential, such as information concerning the composition of assets, rates of return, credit quality, structure or ownership of securities, or (b) designated as confidential obtained in connection with the services rendered by the Sub-Advisor hereunder and shall not disclose any such information to non-affiliated third parties except (i) with the prior written consent of the Management Company, (ii) such information as a rating agency shall reasonably request in connection with its rating of notes issued in connection with a Transaction or supplying credit estimates on any obligation included in the Portfolios, (iii) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions on behalf of the Management Company or any Account for which the Management Company serves as portfolio manager, (iv) as required by (A) applicable law or (B) the rules or regulations of any self-regulating organization, body or official having jurisdiction over the Sub-Advisor or any of its affiliates, (v) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (vi) such information as shall have been publicly disclosed other than in known violation of this Agreement or shall have been obtained by the Sub-Advisor on a non-confidential basis, (vii) such information as is necessary or appropriate to disclose so that the Sub-Advisor may perform its duties hereunder, (viii) as expressly permitted in the final offering memorandum or any definitive transaction documents relating to any Transaction, or (ix) information relating to performance of the Portfolios as may be used by the Sub-Advisor in the ordinary course of its business. Notwithstanding the foregoing, it is agreed that the Sub-Advisor may disclose without the consent of any Person (1) that it is serving as Sub-Advisor to the Management Company and each Account, (2) the nature, aggregate principal amount and overall performance of the Portfolios, (3) the amount of earnings on the Portfolios, (4) such other information about the Management Company, the Portfolios and the Transactions as is customarily disclosed by Sub-Advisors to management vehicles similar to the Management Company, and (5) the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. This authorization to disclose the U.S. tax treatment and tax structure does not permit disclosure of information identifying the Sub-Advisor, the Management Company, the Accounts or any other party to the transactions contemplated by this Agreement (except to the extent such information is relevant to U.S. tax structure or tax treatment of such transactions).

12. Notice. Any notice or demand to any party to this Agreement to be given, made or served for any purposes under this Agreement shall be given, made or served by sending the same by overnight mail, facsimile or email transmission or by delivering it by hand as follows (or to such other address, email address or facsimile number as shall have been notified to the other parties hereto):

(a) If to the Management Company:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

(b) If to the Sub-Advisor:

Highland Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

13. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas. The parties unconditionally and irrevocably consent to the exclusive jurisdiction of the courts located in the State of Texas and waive any objection with respect thereto, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

14. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR ITS ENTERING INTO THIS AGREEMENT.

15. Severability. The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties.

16. No Waiver. The performance of any condition or obligation imposed upon any party hereunder may be waived only upon the written consent of the parties hereto. Such waiver shall be limited to the terms thereof and shall not constitute a waiver of any other condition or obligation of the other party under this Agreement. Any failure by any party to this Agreement to enforce any provision shall not constitute a waiver of that or any other provision or this Agreement.

17. Counterparts. This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

18. Third Party Beneficiaries. Nothing in this Agreement will be construed to give any person or entity other than the parties to this Agreement, the Accounts and any person or entity with indemnification rights hereunder any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. Except as provided in the foregoing sentence, this Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their successors and assigns.

19. No Partnership or Joint Venture. Nothing set forth in this Agreement shall constitute, or be construed to create, an employment relationship, a partnership or a joint venture between the parties. Except as expressly provided herein or in any other written agreement between the parties, no party has any authority, express or implied, to bind or to incur liabilities on behalf of, or in the name of, any other party.


20. Entire Agreement. This Agreement, together with each Management Agreement and Related Agreement, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between the parties with respect to such subject matter.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
as the Sub-Advisor


By: Strand Advisors, Inc., its General Partner



By: _____
Name: James Dondero
Title: President

ACIS CAPITAL MANAGEMENT, L.P.,
as the Management Company

By: Acis Capital Management GP, LLC, its General Partner



By: _____
Name: James Dondero
Title: President

Appendix A

The Management Company shall pay to the Sub-Advisor a Sub-Advisory Fee for the Services for the Accounts in an amount equal to the aggregate management fees that would be received by the Management Company for such Accounts if such management fees were calculated in exact conformity with the calculation of management fees for such Accounts, except that the management fee rates applied in such calculation were replaced by the fee rate set forth in the following table. Such fees shall be payable promptly (or at such time as is otherwise agreed by the parties) following the Management Company's receipt of management fees for such Accounts, it being understood that none of the foregoing shall prohibit the Management Company from waiving or entering into side letters with respect to management fees for such Accounts; provided that any such waived or reduced amounts shall not be recognized for purposes of calculating the fees payable by the Management Company hereunder. Notwithstanding the foregoing, the parties may agree to a different allocation from that set forth during any period in order to reflect the then current fair market value of the Services rendered.

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Issuer / Borrower / Fund / Account	Management Agreement	Related Agreements	Date of Management Agreement	Annualized Sub-Advisory Fee Rate (bps)
Hewett's Island CLO I-R, Ltd.	Management Agreement	Indenture	November 20, 2007	20
Acis CLO 2013-1 Ltd.	Portfolio Management Agreement	Indenture	March 18, 2013	20
Acis CLO 2013-2 Ltd.	Portfolio Management Agreement	Indenture	October 3, 2013	20
Acis CLO 2014-3 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	February 25, 2014	20
Acis CLO 2014-4 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	June 5, 2014	20
Acis CLO 2014-5 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	November 18, 2014	20
Acis CLO 2015-6 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	April 16, 2015	20
BayVK R2 Lux S.A., SICAV-FIS	Agreement for the Outsourcing of the Asset Management	Service Level Agreement	February 27, 2015	20
Acis Loan Funding, Ltd.	Portfolio Management Agreement		August 10, 2015	0

APPENDIX B

Purchase and Sale Transactions; Brokerage

The Management Company acknowledges and agrees that the Sub-Advisor or any of its affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of any Account. Such investments may be the same or different from those made by or on behalf of the Management Company or the Accounts.

Additional Activities of the Sub-Advisor

Nothing herein shall prevent the Sub-Advisor or any of its clients, its partners, its members, funds or other investment accounts managed by it or any of its affiliates, or their employees and their affiliates (collectively, the “Related Entities”), from engaging in other businesses, or from rendering services of any kind to the Management Company, its affiliates, any Account or any other Person or entity regardless of whether such business is in competition with the Management Company, its affiliates, such Account or otherwise. Without limiting the generality of the Sub-Advisor and its Related Entities may:

- (a) serve as managers or directors (whether supervisory or managing), officers, employees, partners, agents, nominees or signatories for the Management Company or any affiliate thereof, or for any obligor or issuer in respect of any of the Portfolio Assets or any affiliate thereof, to the extent permitted by their respective organizational documents and underlying instruments, as from time to time amended, or by any resolutions duly adopted by the Management Company, any Account, their respective affiliates or any obligor or issuer in respect of any of the Portfolio Assets (or any affiliate thereof) pursuant to their respective organizational documents;
- (b) receive fees for services of whatever nature rendered to the obligor or issuer in respect of any of the Portfolio Assets or any affiliate thereof;
- (c) be retained to provide services unrelated to this Agreement to the Management Company, any Account or their respective affiliates and be paid therefor, on an arm’s-length basis;
- (d) be a secured or unsecured creditor of, or hold a debt obligation of or equity interest in, the Management Company, any Account or any affiliate thereof or any obligor or issuer of any Portfolio Asset or any affiliate thereof;
- (e) sell any Portfolio Asset to, or purchase or acquire any Portfolio Asset from, any Account while acting in the capacity of principal or agent; *provided, however*, that any such sale or purchase effected by the Sub-Advisor shall be subject to applicable law and any applicable provisions of this Agreement, the related Management Agreement and Related Agreements, as applicable;
- (f) underwrite, arrange, structure, originate, syndicate, act as a distributor of or make a market in any Portfolio Asset;

(g) serve as a member of any “creditors’ board”, “creditors’ committee” or similar creditor group with respect to any Portfolio Asset; or

(h) act as portfolio manager, portfolio manager, investment manager and/or investment adviser or sub-advisor in collateralized bond obligation vehicles, collateralized loan obligation vehicles and other similar warehousing, financing or other investment vehicles.

As a result, such individuals may possess information relating to obligors and issuers of Portfolio Assets that is (a) not known to or (b) known but restricted as to its use by the individuals at the Sub-Advisor responsible for monitoring the Portfolio Assets and performing the Services under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Management Company and/or any Account and otherwise create conflicts of interest for the Management Company and/or any Account. The Management Company acknowledges and agrees that, in all such instances, the Sub-Advisor and its affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made by the Management Company with respect to the investments of any Account and they have no duty, in making or managing such investments, to act in a way that is favorable to any Account.

The Management Company acknowledges that there are generally no ethical screens or information barriers between the Sub-Advisor and certain of its affiliates of the type that many firms implement to separate Persons who make investment decisions from others who might possess applicable material, non-public information that could influence such decisions. The officers or affiliates of the Sub-Advisor may possess information relating to obligors or issuers of Portfolio Assets that is not known to the individuals at the Sub-Advisor responsible for providing the Services under this Agreement. As a result, the Sub-Advisor may from time to time come into possession of material nonpublic information that limits the ability of the Sub-Advisor to effect a transaction for the Management Company and/or any Account, and the Management Company and/or such Account’s investments may be constrained as a consequence of the Sub-Advisor’s inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Management Company and/or such Account.

Unless the Sub-Advisor determines in its sole discretion that such Transaction complies with the conflicts of interest provisions set forth in the applicable Management Agreement and Related Agreements, he Sub-Advisor will not direct any Account to acquire or sell loans or securities entered into or issued by (i) Persons of which the Sub-Advisor, any of its affiliates or any of its officers, directors or employees are directors or officers, (ii) Persons of which the Sub-Advisor or any of its respective affiliates act as principal or (iii) Persons about which the Sub-Advisor or any of its affiliates have material non-public information which the Sub-Advisor deems would prohibit it from advising as to the trading of such securities in accordance with applicable law.

It is understood that the Sub-Advisor and any of its affiliates may engage in any other business and furnish investment management and advisory services to others, including Persons which may have investment policies similar to those followed by the Management Company with respect to the Portfolio Assets and which may own securities or obligations of the same class, or which are of the same type, as the Portfolio Assets or other securities or obligations of the obligors or issuers of the Portfolio Assets. The Sub-Advisor and its affiliates will be free, in their sole discretion, to

make recommendations to others, or effect transactions on behalf of themselves or for others, which may be the same as or different from those effected with respect to the Collateral. Nothing in this Agreement, in the Management Agreements or in the Related Agreements shall prevent the Sub-Advisor or any of its affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Sub-Advisor to be purchased or sold on behalf of an Account. It is understood that, to the extent permitted by applicable law, the Sub-Advisor, its Related Entities, or any of their owners, directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or affiliates or the other Covered Persons or any member of their families or a Person or entity advised by the Sub-Advisor may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same issuer, as those that may be owned or acquired by an Account. The Management Company agrees that, in the course of providing the Services, the Sub-Advisor may consider its relationships with other clients (including obligors and issuers) and its affiliates.

The Management Company agrees that neither the Sub-Advisor nor any of its affiliates is under any obligation to offer any investment opportunity of which they become aware to the Management Company or any Account or to account to the Management Company or any Account for (or share with the Management Company or any Account or inform the Management Company or any Account of) any such transaction or any benefit received by them from any such transaction. The Management Company understands that the Sub-Advisor and/or its affiliates may have, for their own accounts or for the accounts of others, portfolios with substantially the same portfolio criteria as are applicable to the Accounts. Furthermore, the Sub-Advisor and/or its affiliates may make an investment on behalf of any client or on their own behalf without offering the investment opportunity or making any investment on behalf of the Management Company or any Account and, accordingly, investment opportunities may not be allocated among all such clients. The Management Company acknowledges that affirmative obligations may arise in the future, whereby the Sub-Advisor and/or its affiliates are obligated to offer certain investments to clients before or without the Sub-Advisor offering those investments to the Management Company or any Account.

The Management Company acknowledges that the Sub-Advisor and its affiliates may make and/or hold investments in an obligor's or issuer's obligations or securities that may be *pari passu*, senior or junior in ranking to an investment in such obligor's or issuer's obligations or securities made and/or held by the Management Company or any Account, or in which partners, security holders, members, officers, directors, agents or employees of the Sub-Advisor and its affiliates serve on boards of directors, or otherwise have ongoing relationships or otherwise have interests different from or adverse to those of the Management Company and the Accounts.

Defined Terms

For purposes of this Appendix B, the following defined terms shall have the meanings set forth below:

“Portfolio” shall mean, with respect to any Account and/or Transaction, the assets held by or in the name of the Account or any subsidiary of the Account in respect of such Transaction,

whether or not for the benefit of the related secured parties, securing the obligations of such Account.

“Portfolio Asset” shall mean any loan, eligible investment or other asset contained in the Portfolio.

“Transaction” shall mean any action taken by the Sub-Advisor on behalf of any Account with respect to the Portfolio, including, without limitation, (i) selecting the Portfolio Assets to be acquired by the Account, (ii) investing and reinvesting the Portfolio, (iii) amending, waiving and/or taking any other action commensurate with managing the Portfolio and (iv) instructing the Account with respect to any acquisition, disposition or tender of a Portfolio Asset or other assets received in respect thereof in the open market or otherwise by the Account.



FOURTH AMENDED AND RESTATED SHARED SERVICES AGREEMENT

by and between

ACIS CAPITAL MANAGEMENT, L.P.

and

HIGHLAND CAPITAL MANAGEMENT, L.P.

Dated March 17, 2017

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FOURTH AMENDED AND RESTATED SHARED SERVICES AGREEMENT

This Fourth Amended and Restated Shared Services Agreement (as amended, modified, waived, supplemented or restated from time to time in accordance with the terms hereof, this “Agreement”), dated as of March 17, 2017, is entered into by and between Acis Capital Management, L.P., a Delaware limited partnership, as the management company hereunder (in such capacity, the “Management Company”), and Highland Capital Management, L.P., a Delaware limited partnership (“Highland”), as the staff and services provider hereunder (in such capacity, the “Staff and Services Provider” and together with the Management Company, the “Parties”).

RECITALS

WHEREAS, the Parties entered into that certain Third Amended and Restated Shared Services Agreement dated effective January 1, 2016 (the “Existing Agreement”);

WHEREAS, the Staff and Services Provider is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the “Advisers Act”);

WHEREAS, the Staff and Services Provider and the Management Company are engaged in the business of providing investment management services;

WHEREAS, the Staff and Services Provider is hereby being retained to provide certain back- and middle-office services and administrative, infrastructure and other services to assist the Management Company in conducting its business, and the Staff and Services Provider is willing to make such services available to the Management Company on the terms and conditions hereof;

WHEREAS, the Management Company may employ certain individuals to perform portfolio selection and asset management functions for the Management Company, and certain of these individuals may also be employed simultaneously by the Staff and Services Provider during their employment with the Management Company;

WHEREAS, each Person employed by both the Management Company and the Staff and Services Provider as described above (each, a “Shared Employee”) is and shall be identified on the books and records of each of the Management Company and the Staff and Services Provider (as amended, modified, supplemented or restated from time to time); and

WHEREAS, the Parties now desire to amend and restate the Existing Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree that the Existing Agreement is hereby amended, restated and replaced in its entirety as follows.

ARTICLE I

DEFINITIONS

Section 1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

“Advisers Act” shall have the meaning set forth in the Recitals to this Agreement.

“Advisory Restriction” shall have the meaning set forth in Section 5.01(b).

“Affiliate” shall mean with respect to a Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the first Person. The term “control” means (i) the legal or beneficial ownership of securities representing a majority of the voting power of any person or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether by contract or otherwise.

“Agreement” shall have the meaning set forth in the Preamble to this Agreement.

“Applicable Asset Criteria and Concentrations” means any applicable eligibility criteria, portfolio concentration limits and other similar criteria or limits which the Management Company instructs in writing to the Staff and Services Provider in respect of the Portfolio or one or more CLOs or Accounts, as such criteria or limits may be modified, amended or supplemented from time to time in writing by the Management Company;

“Applicable Law” shall mean, with respect to any Person or property of such Person, any action, code, consent decree, constitution, decree, directive, enactment, finding, guideline, law, injunction, interpretation, judgment, order, ordinance, policy statement, proclamation, formal guidance, promulgation, regulation, requirement, rule, rule of law, rule of public policy, settlement agreement, statute, writ, or any particular section, part or provision thereof, including the Risk Retention Rules, of any Governmental Authority to which the Person in question is subject or by which it or any of its property is bound.

“CLO or Account” shall mean a collateralized loan obligation transaction, including any type of short-term or long-term warehouse or repurchase facility in connection therewith, or a fund or account advised by the Management Company, as applicable.

“Covered Person” shall mean the Staff and Services Provider, any of its Affiliates, and any of their respective managers, members, principals, partners, directors, officers, shareholders, employees and agents (but shall not include the Management Company, its subsidiaries or member(s) and any managers, members, principals, partners, directors, officers, shareholders, employees and agents of the Management Company or its subsidiaries or member(s) (in their capacity as such)).

“Governmental Authority” shall mean (i) any government or quasi-governmental authority or political subdivision thereof, whether national, state, county, municipal or regional, whether U.S. or non-U.S.; (ii) any agency, regulator, arbitrator, board, body, branch, bureau, commission,

corporation, department, master, mediator, panel, referee, system or instrumentality of any such government, political subdivision or other government or quasi-government entity, whether non-U.S. or U.S.; and (iii) any court, whether U.S. or non-U.S.

“Highland” shall have the meaning set forth in the preamble to this Agreement.

“Indebtedness” shall mean: (a) all indebtedness for borrowed money and all other obligations, contingent or otherwise, with respect to surety bonds, guarantees of borrowed money, letters of credit and bankers’ acceptances whether or not matured, and hedges and other derivative contracts and financial instruments; (b) all obligations evidenced by notes, bonds, debentures, or similar instruments, or incurred under bank guaranty or letter of credit facilities or credit agreements; (c) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to any property of the Management Company or any subsidiary; (d) with respect to the Management Company, all indebtedness relating to the acquisition by the EU Originator Series of a collateral obligation that failed to settle (including any ineligible or defaulted collateral obligation) into a CLO; (e) all capital lease obligations; (f) all indebtedness guaranteed by such Person or any of its subsidiaries; (g) all capital lease obligations; (h) all indebtedness guaranteed by such Person or any of its subsidiaries.

“Management Company” shall have the meaning set forth in the preamble to this Agreement.

“Operating Guidelines” means any operating guidelines attached to any portfolio management agreement, investment management agreement or similar agreement entered into between the Management Company and a CLO or Account.

“Parties” shall have the meaning set forth in the preamble to this Agreement.

“Portfolio” means the Management Company’s portfolio of collateral loan obligations, debt securities (including equity investments or subordinated securities in a CLO such as a Retention Interest), other similar obligations, preferred return notes, financial instruments, securities or other assets held directly or indirectly by, or on behalf of, the Management Company from time to time;

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Staff and Services Fee” shall have the meaning set forth in Section 3.01 of this Agreement.

“Staff and Services Provider” shall have the meaning set forth in the preamble to this Agreement.

“Shared Employee” shall have the meaning set forth in the Recitals to this Agreement.

Section 1.02 Interpretation. The following rules apply to the use of defined terms and the interpretation of this Agreement: (i) the singular includes the plural and the plural includes the singular; (ii) “or” is not exclusive (unless preceded by “either”) and “include” and “including” are

not limiting; (iii) unless the context otherwise requires, references to agreements shall be deemed to mean and include such agreements as the same may be amended, supplemented, waived and otherwise modified from time to time; (iv) a reference to a law includes any amendment or modification to such law and any rules or regulations issued thereunder or any law enacted in substitution or replacement therefor; (v) a reference to a Person includes its successors and assigns; (vi) a reference to a Section without further reference is to the relevant Section of this Agreement; (vii) the headings of the Sections and subsections are for convenience and shall not affect the meaning of this Agreement; (viii) “writing”, “written” and comparable terms refer to printing, typing, lithography and other shall mean of reproducing words in a visible form (including telefacsimile and electronic mail); (ix) “hereof”, “herein”, “hereunder” and comparable terms refer to the entire instrument in which such terms are used and not to any particular article, section or other subdivision thereof or attachment thereto; and (x) references to any gender include any other gender, masculine, feminine or neuter, as the context requires.

ARTICLE II

SERVICES

Section 2.01 General Authority. Highland is hereby appointed as Staff and Services Provider for the purpose of providing such services and assistance as the Management Company may request from time to time to, and to make available the Shared Employees to, the Management Company in accordance with and subject to the provisions of this Agreement and the Staff and Services Provider hereby accepts such appointment. The Staff and Services Provider hereby agrees to such engagement during the term hereof and to render the services described herein for the compensation provided herein, subject to the limitations contained herein.

Section 2.02 Provision of Services. Without limiting the generality of Section 2.1 and subject to Section 2.4 (Applicable Asset Criteria and Concentrations) below, the Staff and Services Provider hereby agrees, from the date hereof, to provide the following back- and middle-office services and administrative, infrastructure and other services to the Management Company.

(a) *Back- and Middle-Office*: Assistance and advice with respect to back- and middle-office functions including, but not limited to, accounting, payments, operations, technology and finance;

(b) *Legal/Compliance/Risk Analysis*. Assistance and advice with respect to legal issues, compliance support and implementation and general risk analysis;

(c) *Management of Collateral Obligations and CLOs and Accounts*. Assistance and advice with respect to (i) the adherence to Operating Guidelines by the Management Company, and (ii) performing any obligations of the Management Company under or in connection with any back- and middle-office function set forth in any portfolio management agreement, investment management agreement or similar agreement in effect between the Management Company and any CLO or Account from time to time.

(d) *Valuation*. Advice relating to the appointment of suitable third parties to provide valuations on assets comprising the Portfolio and including, but not limited to, such

valuations required to facilitate the preparation of financial statements by the Management Company or the provision of valuations in connection with, or preparation of reports otherwise relating to, a CLO or Account for which the Management Company serves as portfolio manager or investment manager or in a similar capacity;

(e) *Execution and Documentation.* Assistance relating to the negotiation of the terms of, and the execution and delivery by the Management Company of, any and all documents which the Management Company considers to be necessary in connection with the acquisition and disposition of an asset in the Portfolio by the Management Company or a CLO or Account managed by the Management Company, CLO transactions involving the Management Company, and any other rights and obligations of the Management Company;

(f) *Marketing.* Provide access to marketing team representatives to assist with the marketing of the Management Company and any specified CLOs or Accounts managed by the Management Company conditional on the Management Company's agreement that any incentive compensation related to such marketing shall be borne by the Management Company;

(g) *Reporting.* Assistance relating to any reporting the Management Company is required to make in relation to the Portfolio or any CLO or Account, including reports relating to (i) purchases, sales, liquidations, acquisitions, disposals, substitutions and exchanges of assets in the Portfolio, (ii) the requirements of an applicable regulator, or (iii) other type of reporting which the Management Company and Staff and Services Provider may agree from time to time;

(h) *Administrative Services.* The provision of office space, information technology services and equipment, infrastructure and other related services requested or utilized by the Management Company from time to time;

(i) *Shared Employees.* The provision of Shared Employees and such additional human capital as may be mutually agreed by the Management Company and the Staff and Services Provider in accordance with the provisions of Section 2.03 hereof;

(j) *Ancillary Services.* Assistance and advice on all things ancillary or incidental to the foregoing; and

(k) *Other.* Assistance and advice relating to such other back- and middle-office services in connection with the day-to-day business of the Management Company as the Management Company and the Staff and Services Provider may from time to time agree.

For the avoidance of doubt, none of the services contemplated hereunder shall constitute investment advisory services, and the Staff & Services Provider shall not provide any advice to the Management Company or perform any duties on behalf of the Management Company, other than the back- and middle-office services contemplated herein, with respect to (a) the general management of the Management Company, its business or activities, (b) the initiation or structuring of any CLO or Account or similar securitization, (c) the substantive investment management decisions with respect to any CLO or Account or any related collateral obligations or securitization, (d) the actual selection of any collateral obligation or assets by the Management Company, (e) binding recommendations as to any disposal of or amendment to any Collateral Obligation or (f) any similar functions.

Section 2.03 Shared Employees.

(a) The Staff and Services Provider hereby agrees and consents that each Shared Employee shall be employed by the Management Company, and the Management Company hereby agrees and consents that each Shared Employee shall be employed by the Staff and Services Provider. The name, location and such other matters as the Parties desire to reflect with respect to each Shared Employee shall be identified on the books and records of each of the Management Company and the Staff and Services Provider, which may be amended in writing from time to time by the Parties to add or remove any Shared Employee to reflect the employment (or lack thereof) of such employee. Except as may otherwise separately be agreed in writing between the applicable Shared Employee and the Management Company and/or the Staff and Services Provider, in each of their discretion, each Shared Employee is an at-will employee and no guaranteed employment or other employment arrangement is agreed or implied by this Agreement with respect to any Shared Employee, and for avoidance of doubt this Agreement shall not amend, limit, constrain or modify in any way the employment arrangements as between any Shared Employee and the Staff and Services Provider or as between any Shared Employee and the Management Company, it being understood that the Management Company may enter into a short-form employment agreement with any Shared Employee memorializing such Shared Employee's status as an employee of the Management Company. If at any time any Shared Employee (or any other person employed by the Staff and Services provider who also provides services to the Management Company) shall be terminated from employment with the Staff and Services Provider or otherwise resigns or is removed from employment with the Staff and Services Provider, then such person may only serve as a separate direct employee of the Management Company upon the approval of the Management Company. The Staff and Services Provider shall ensure that the Management Company has sufficient access to the Shared Employees so that the Shared Employees spend adequate time to provide the services required hereunder. The Staff and Services Provider may also employ the services of persons other than the Specified Persons as it deems fit in its sole discretion

(b) Notwithstanding that the Shared Employees shall be employed by both the Staff and Services Provider and the Management Company, the Parties acknowledge and agree that any and all salary and benefits of each Shared Employee shall be paid exclusively by the Staff and Services Provider and shall not be paid or borne by the Management Company and no additional amounts in connection therewith shall be due from the Management Company to the Staff and Services Provider.

(c) To the extent that a Shared Employee participates in the rendering of services to the Management Company's clients, the Shared Employee shall be subject to the oversight and control of the Management Company and such services shall be provided by the Shared Employee exclusively in his or her capacity as a "supervised person" of, or "person associated with", the Management Company (as such terms are defined in Sections 202(a)(25) and 202(a)(17), respectively, of the Advisers Act).

(d) Each Party may continue to oversee, supervise and manage the services of each Shared Employee in order to (1) ensure compliance with the Party's compliance policies and procedures, (2) ensure compliance with regulations applicable to the Party and (3) protect the interests of the Party and its clients; *provided* that Staff and Services Provider shall (A) cooperate

with the Management Company's supervisory efforts and (B) make periodic reports to the Management Company regarding the adherence of Shared Employees to Applicable Law, including but not limited to the 1940 Act, the Advisers Act and the United States Commodity Exchange Act of 1936, as amended, in performing the services hereunder.

(e) Where a Shared Employee provides services hereunder through both Parties, the Parties shall cooperate to ensure that all such services are performed consistently with Applicable Law and relevant compliance controls and procedures designed to prevent, among other things, breaches in information security or the communication of confidential, proprietary or material non-public information.

(f) The Staff and Services Provider shall ensure that each Shared Employee has any registrations, qualifications and/or licenses necessary to provide the services hereunder.

(g) The Parties will cooperate to ensure that information about the Shared Employees is adequately and appropriately disclosed to clients, investors (and potential investors), investment banks operating as initial purchaser or placement agent with respect to any CLO or Account, and regulators, as applicable. To facilitate such disclosure, the Staff and Services Provider agrees to provide, or cause to be provided, to the Management Company such information as is deemed by the Management Company to be necessary or appropriate with respect to the Staff and Services Provider and the Shared Employees (including, but not limited to, biographical information about each Shared Employee).

(h) The Parties shall cooperate to ensure that, when so required, each has adopted a Code of Ethics meeting the requirements of the Advisers Act ("Code of Ethics") that is consistent with applicable law and which is substantially similar to the other Party's Code of Ethics.

(i) The Staff and Services Provider shall make reasonably available for use by the Management Company, including through Shared Employees providing services pursuant to this Agreement, any relevant intellectual property and systems necessary for the provision of the services hereunder.

(j) The Staff and Services Provider shall require that each Shared Employee:

(i) certify that he or she is subject to, and has been provided with, a copy of each Party's Code of Ethics and will make such reports, and seek prior clearance for such actions and activities, as may be required under the Codes of Ethics;

(ii) be subject to the supervision and oversight of each Party's officers and directors, including without limitation its Chief Compliance Officer ("CCO"), which CCO may be the same Person, with respect to the services provided to that Party or its clients;

(iii) provide services hereunder and take actions hereunder only as approved by the Management Company;

(iv) provide any information requested by a Party, as necessary to comply with applicable disclosure or regulatory obligations;

(v) to the extent authorized to transact on behalf of the Management Company or a CLO or Account, take reasonable steps to ensure that any such transaction is consistent with any policies and procedures that may be established by the Parties and all Applicable Asset Criteria and Concentrations; and

(vi) act, at all times, in a manner consistent with the fiduciary duties and standard of care owed by the Management Company to its members and direct or indirect investors or to a CLO or Account as well as clients of Staff and Services Provider by seeking to ensure that, among other things, information about any investment advisory or trading activity applicable to a particular client or group of clients is not used to benefit the Shared Employee, any Party or any other client or group of clients in contravention of such fiduciary duties or standard of care.

(k) Unless specifically authorized to do so, or appointed as an officer or authorized person of the Management Company with such authority, no Shared Employee may contract on behalf or in the name of the Management Company, acting as principal.

Section 2.04 Applicable Asset Criteria and Concentrations. The Management Company will promptly inform the Staff and Services Provider in writing of any Applicable Asset Criteria and Concentrations to which it agrees from time to time and the Staff and Services Provider shall take such Applicable Asset Criteria and Concentrations into account when providing assistance and advice in accordance with Section 2.2 above and any other assistance or advice provided in accordance with this Agreement.

Section 2.05 Compliance with Management Company Policies and Procedures. The Management Company will from time to time provide the Staff and Services Provider and the Shared Employees with any policy and procedure documentation which it establishes internally and to which it is bound to adhere in conducting its business pursuant to regulation, contract or otherwise. Subject to any other limitations in this Agreement, the Staff and Services Provider will use reasonable efforts to ensure any services it and the Shared Employees provide pursuant to this Agreement complies with or takes account of such internal policies and procedures.

Section 2.06 Authority. The Staff and Services Provider's scope of assistance and advice hereunder is limited to the services specifically provided for in this Agreement. The Staff and Services Provider shall not assume or be deemed to assume any rights or obligations of the Management Company under any other document or agreement to which the Management Company is a party. Notwithstanding any other express or implied provision to the contrary in this Agreement, the activities of the Staff and Services Provider pursuant to this Agreement shall be subject to the overall policies of the Management Company, as notified to the Staff and Services Provider from time to time. The Staff and Services Provider shall not have any duties or obligations to the Management Company unless those duties and obligations are specifically provided for in this Agreement (or in any amendment, modification or novation hereto or hereof to which the Staff and Services Provider is a party).

Section 2.07 Third Parties.

(a) The Staff and Services Provider may employ third parties, including its affiliates, to render advice, provide assistance and to perform any of its duties under this Agreement; *provided* that notwithstanding the employment of third parties for any such purpose, the Staff and Services Provider shall not be relieved of any of its obligations or liabilities under this Agreement.

(b) In providing services hereunder, the Staff and Services Provider may rely in good faith upon and will incur no liability for relying upon advice of nationally recognized counsel (which may be counsel for the Management Company, a CLO or Account or any Affiliate of the foregoing), accountants or other advisers as the Staff and Services Provider determines, in its sole discretion, is reasonably appropriate in connection with the services provided by the Staff and Services Provider under this Agreement.

Section 2.08 Management Company to Cooperate with the Staff and Services Provider. In furtherance of the Staff and Services Provider's obligations under this Agreement the Management Company shall cooperate with, provide to, and fully inform the Staff and Services Provider of, any and all documents and information the Staff and Services Provider reasonably requires to perform its obligations under this Agreement.

Section 2.09 Power of Attorney. If the Management Company considers it necessary for the provision by the Staff and Services Provider of the assistance and advice under this Agreement (after consultation with the Staff and Services Provider), it may appoint the Staff and Services Provider as its true and lawful agent and attorney, with full power and authority in its name to sign, execute, certify, swear to, acknowledge, deliver, file, receive and record any and all documents that the Staff and Services Provider reasonably deems appropriate or necessary in connection with the execution and settlement of acquisitions of assets as directed by the Management Company and the Staff and Services Provider's powers and duties hereunder (which for the avoidance of doubt shall in no way involve the discretion and/or authority of the Management Company with respect to investments). Any such power shall be revocable in the sole discretion of the Management Company.

ARTICLE III

CONSIDERATION AND EXPENSES

Section 3.01 Consideration. As compensation for its performance of its obligations as Staff and Services Provider under this Agreement, the Staff and Services Provider will be entitled to receive the Staff and Services Fee payable thereto. The "Staff and Services Fee" shall be payable in accordance with Appendix A attached hereto, as such appendix may be amended by the Parties from time to time.

From time to time, the Management Company may enter into shared services agreements with certain management companies on similar terms to this Agreement. Promptly following the receipt of any fees pursuant to such shared services agreements, the Management Company shall pay 100% of such fees to the Staff and Services Provider.

Section 3.03 Costs and Expenses. Each party shall bear its own expenses; *provided* that the Management Company shall reimburse the Staff and Services Provider for any and all costs and expenses that may be borne properly by the Management Company.

Section 3.04 Deferral. Notwithstanding anything to the contrary contained herein, if on any date the Management Company determines that it would not have sufficient funds available to it to make a payment of Indebtedness, it shall have the right to defer any all and amounts payable to the Staff and Services Provider pursuant to this Agreement, including any fees and expenses; *provided* that the Management Company shall promptly pay all such amounts on the first date thereafter that sufficient amounts exist to make payment thereof.

ARTICLE IV

REPRESENTATIONS AND COVENANTS

Section 4.01 Representations. Each of the Parties hereto represents and warrants that:

(a) It has full power and authority to execute and deliver, and to perform its obligations under, this Agreement;

(b) this Agreement has been duly authorized, executed and delivered by it and constitutes its valid and binding, obligation, enforceable in accordance with its terms except as the enforceability hereof may be subject to (i) bankruptcy, insolvency, reorganization moratorium, receivership, conservatorship or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding, in equity or at law);

(c) no consent, approval, authorization or order of or declaration or filing with any Governmental Authority is required for the execution of this Agreement or the performance by it of its duties hereunder, except such as have been duly made or obtained; and

(d) neither the execution and delivery of this Agreement nor the fulfillment of the terms hereof conflicts with or results in a breach or violation of any of the terms or provisions of, or constitutes a default under, (i) its constituting and organizational documents; or (ii) the terms of any material indenture, contract, lease, mortgage, deed of trust, note, agreement or other evidence of indebtedness or other material agreement, obligation, condition, covenant or instrument to which it is a party or by which it is bound.

ARTICLE V

COVENANTS

Section 5.01 Compliance; Advisory Restrictions.

(a) The Staff and Services Provider shall reasonably cooperate with the Management Company in connection with the Management Company's compliance with its policies and procedures relating to oversight of the Staff and Services Provider. Specifically, the Staff and Services Provider agrees that it will provide the Management Company with reasonable

access to information relating to the performance of Staff and Services Provider's obligations under this Agreement.

(b) This Agreement is not intended to and shall not constitute an assignment, pledge or transfer of any portfolio management agreement or any part thereof. It is the express intention of the parties hereto that this Agreement and all services performed hereunder comply in all respects with all (a) applicable contractual provisions and restrictions contained in each portfolio management agreement, investment management agreement or similar agreement and each document contemplated thereby; and (b) Applicable Laws (collectively, the "Advisory Restrictions"). If any provision of this Agreement is determined to be in violation of any Advisory Restriction, then the services to be provided under this Agreement shall automatically be limited without action by any person or entity, reduced or modified to the extent necessary and appropriate to be enforceable to the maximum extent permitted by such Advisory Restriction.

Section 5.02 Records; Confidentiality.

The Staff and Services Provider shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Management Company and its accountants and other agents at any time during normal business hours and upon not less than three (3) Business Days' prior notice; *provided* that the Staff and Services Provider shall not be obligated to provide access to any non-public information if it in good faith determines that the disclosure of such information would violate any applicable law, regulation or contractual arrangement.

The Staff and Services Provider shall follow its customary procedures to keep confidential any and all information obtained in connection with the services rendered hereunder that is either (a) of a type that would ordinarily be considered proprietary or confidential, such as information concerning the composition of assets, rates of return, credit quality, structure or ownership of securities, or (b) designated as confidential obtained in connection with the services rendered by the Staff and Services Provider hereunder and shall not disclose any such information to non-affiliated third parties, except (i) with the prior written consent of the Management Company, (ii) such information as a rating agency shall reasonably request in connection with its rating of notes issued by a CLO or supplying credit estimates on any obligation included in the Portfolio, (iii) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions on behalf of the Management Company or any CLO or Account for which the Management Company serves as portfolio manager or investment manager or in a similar capacity, (iv) as required by (A) Applicable Law or (B) the rules or regulations of any self-regulating organization, body or official having jurisdiction over the Staff and Services Provider or any of its Affiliates, (v) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (vi) such information as shall have been publicly disclosed other than in known violation of this Agreement or shall have been obtained by the Staff and Services Provider on a non-confidential basis, (vii) such information as is necessary or appropriate to disclose so that the Staff and Services Provider may perform its duties hereunder, (viii) as expressly permitted in the final offering memorandum or any definitive transaction documents relating to any CLO or Account, (ix) information relating to performance of the Portfolio as may be used by the Staff and Services Provider in the ordinary course of its business or (xx) such

information as is routinely disclosed to the trustee, custodian or collateral administrator of any CLO or Account in connection with such trustee's, custodian's or collateral administrator's performance of its obligations under the transaction documents related to such CLO or Account. Notwithstanding the foregoing, it is agreed that the Staff and Services Provider may disclose without the consent of any Person (1) that it is serving as staff and services provider to the Management Company, (2) the nature, aggregate principal amount and overall performance of the Portfolio, (3) the amount of earnings on the Portfolio, (4) such other information about the Management Company, the Portfolio and the CLOs or Accounts as is customarily disclosed by staff and services providers to management vehicles similar to the Management Company, and (5) the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. This authorization to disclose the U.S. tax treatment and tax structure does not permit disclosure of information identifying the Staff and Services Provider, the Management Vehicles, the CLOs or Accounts or any other party to the transactions contemplated by this Agreement (except to the extent such information is relevant to U.S. tax structure or tax treatment of such transactions).

ARTICLE VI

EXCULPATION AND INDEMNIFICATION

Section 6.01 Standard of Care. Except as otherwise expressly provided herein, each Covered Person shall discharge its duties under this Agreement with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. To the extent not inconsistent with the foregoing, each Covered Person shall follow its customary standards, policies and procedures in performing its duties hereunder. No Covered Person shall deal with the income or assets of the Management Company in such Covered Person's own interest or for its own account. Each Covered Person in its respective sole and absolute discretion may separately engage or invest in any other business ventures, including those that may be in competition with the Management Company, and the Management Company will not have any rights in or to such ventures or the income or profits derived therefrom

Section 6.02 Exculpation. To the fullest extent permitted by law, no Covered Person will be liable to the Management Company, any Member, or any shareholder, partner or member thereof, for (i) any acts or omissions by such Covered Person arising out of or in connection with the conduct of the business of the Management Company or its General Partner, or any investment made or held by the Management Company or its General Partner, unless such act or omission was made in bad faith or is determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, to be the result of gross negligence or to constitute fraud or willful misconduct (as interpreted under the laws of the State of Delaware) (each, a "Disabling Conduct") on the part of such Covered Person, (ii) any act or omission of any Investor, (iii) any mistake, gross negligence, misconduct or bad faith of any employee, broker, administrator or other agent or representative of such Covered Person, *provided* that such employee, broker, administrator or agent was selected, engaged or retained by or on behalf of such Covered Person with reasonable care, or (iv) any consequential (including loss of profit), indirect, special or punitive damages. To

the extent that, at law or in equity, any Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Management Company or any Member, no Covered Person acting under this Agreement shall be liable to the Management Company or to any such Member for its good-faith reliance on the provisions of this Agreement.

To the fullest extent permitted by law, no Covered Person shall have any personal liability to the Management Company or any Member solely by reason of any change in U.S. federal, state or local or foreign income tax laws, or in interpretations thereof, as they apply to the Management Company or the Members, whether the change occurs through legislative, judicial or administrative action.

Any Covered Person in its sole and absolute discretion may consult legal counsel, accountants or other advisers selected by it, and any act or omission taken, or made in good faith by such Person on behalf of the Management Company or in furtherance of the business of the Management Company in good-faith reliance on and in accordance with the advice of such counsel, accountants or other advisers shall be full justification for the act or omission, and to the fullest extent permitted by applicable law, no Covered Person shall be liable to the Management Company or any Member in so acting or omitting to act if such counsel, accountants or other advisers were selected, engaged or retained with reasonable care.

Section 6.03 Indemnification by the Management Company. The Management Company shall and hereby does, to the fullest extent permitted by applicable law, indemnify and hold harmless any Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings, judgments, assessments, actions and other liabilities, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or unliquidated (“Claims”), that may accrue to or be incurred by any Covered Person, or in which any Covered Person may become involved, as a party or otherwise, or with which any Covered Person may be threatened, relating to or arising out of the investment or other activities of the Management Company or its General Partner, or activities undertaken in connection with the Management Company or its General Partner, or otherwise relating to or arising out of this Agreement, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and attorneys’ fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a “Proceeding”), whether civil or criminal (all of such Claims, amounts and expenses referred to therein are referred to collectively as “Damages”), except to the extent that it shall have been determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, that such Damages arose primarily from Disabling Conduct of such Covered Person. The termination of any Proceeding by settlement, judgment, order, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that any Damages relating to such settlement, judgment, order, conviction or plea of nolo contendere or its equivalent or otherwise relating to such Proceeding arose primarily from Disabling Conduct of any Covered Persons.

Expenses (including attorneys’ fees) incurred by a Covered Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder may be advanced by the Management Company prior to the final disposition thereof upon receipt of a written undertaking by or on behalf of the Covered Person to repay the amount advanced to the extent that it shall be

determined ultimately by a court of competent jurisdiction that the Covered Person is not entitled to be indemnified hereunder. The right of any Covered Persons to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which the Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall be extended to the Covered Person's successors, assigns and legal representatives. Any judgments against the Management Company and/or any Covered Persons in respect of which such Covered Person is entitled to indemnification shall first be satisfied from the assets of the Management Company, including Drawdowns, before such Covered Person is responsible therefor.

Notwithstanding any provision of this Agreement to the contrary, the provisions of this Section 6.03 shall not be construed so as to provide for the indemnification of any Covered Person for any liability (including liability under Federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent (but only to the extent) that such indemnification would be in violation of applicable law, but shall be construed so as to effectuate the provisions of this Section 6.03 to the fullest extent permitted by law.

Section 6.04 Other Sources of Recovery etc. The indemnification rights set forth in Section 6.03 are in addition to, and shall not exclude, limit or otherwise adversely affect, any other indemnification or similar rights to which any Covered Person may be entitled. If and to the extent that other sources of recovery (including proceeds of any applicable policies of insurance or indemnification from any Person in which any of the CLOs or Accounts has an investment) are available to any Covered Person, such Covered Person shall use reasonable efforts to obtain recovery from such other sources before the Company shall be required to make any payment in respect of its indemnification obligations hereunder; *provided* that, if such other recovery is not available without delay, the Covered Person shall be entitled to such payment by the Management Company and the Management Company shall be entitled to reimbursement out of such other recovery when and if obtained.

Section 6.05 Rights of Heirs, Successors and Assigns. The indemnification rights provided by Section 6.03 shall inure to the benefit of the heirs, executors, administrators, successors and assigns of each Covered Person.

Section 6.06 Reliance. A Covered Person shall incur no liability to the Management Company or any Member in acting upon any signature or writing reasonably believed by him, her or it to be genuine, and may rely in good faith on a certificate signed by an officer of any Person in order to ascertain any fact with respect to such Person or within such Person's knowledge. Each Covered Person may act directly or through his, her or its agents or attorneys.

ARTICLE VII

TERMINATION

Section 7.01 Termination. Either Party may terminate this Agreement at any time upon at least thirty (30) days' written notice to the other.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Amendments. This Agreement may not be amended or modified except by an instrument in writing signed by each Party.

Section 8.02 Assignment and Delegation.

(a) Neither Party may assign, pledge, grant or otherwise encumber or transfer all or any part of its rights or responsibilities under this Agreement, in whole or in part, except (i) as provided in clauses (b) and (c) of this Section 8.02, without the prior written consent of the other Party and (ii) in accordance with Applicable Law.

(b) Except as otherwise provided in this Section 8.02, the Staff and Services Provider may not assign its rights or responsibilities under this Agreement unless (i) the Management Company consents in writing thereto and (ii) such assignment is made in accordance with Applicable Law.

(c) The Staff and Services Provider may, without satisfying any of the conditions of Section 8.02(a) other than clause (ii) thereof, (1) assign any of its rights or obligations under this Agreement to an Affiliate; *provided* that such Affiliate (i) has demonstrated ability, whether as an entity or by its principals and employees, to professionally and competently perform duties similar to those imposed upon the Staff and Services Provider pursuant to this Agreement and (ii) has the legal right and capacity to act as Staff and Services Provider under this Agreement, or (2) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity; *provided* that, at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Staff and Services Provider under this Agreement generally (whether by operation of law or by contract) and the other entity is a continuation of the Staff and Services Provider in another corporate or similar form and has substantially the same staff; *provided further* that the Staff and Services Provider shall deliver ten (10) Business Days' prior notice to the Management Company of any assignment or combination made pursuant to this sentence. Upon the execution and delivery of any such assignment by the assignee, the Staff and Services Provider will be released from further obligations pursuant to this Agreement except to the extent expressly provided herein.

Section 8.03 Non-Recourse; Non-Petition.

(a) The Staff and Services Provider agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be payable by the Management Company only to the extent of assets held in the Portfolio.

(b) Notwithstanding anything to the contrary contained herein, the liability of the Management Company to the Staff and Services Provider hereunder is limited in recourse to the Portfolio, and if the proceeds of the Portfolio following the liquidation thereof are insufficient to meet the obligations of the Management Company hereunder in full, the Management Company shall have no further liability in respect of any such outstanding obligations, and such obligations

and all claims of the Staff and Services Provider or any other Person against the Management Company hereunder shall thereupon extinguish and not thereafter revive. The Staff and Services Provider accepts that the obligations of the Management Company hereunder are the corporate obligations of the Management Company and are not the obligations of any employee, member, officer, director or administrator of the Management Company and no action may be taken against any such Person in relation to the obligations of the Management Company hereunder.

(c) Notwithstanding anything to the contrary contained herein, any Staff and Services Provider agrees not to institute against, or join any other Person in instituting against, the Management Company any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under United States federal or state bankruptcy laws, or similar laws until at least one year and one day (or, if longer, the then applicable preference period plus one day) after the payment in full all amounts payable in respect of any Indebtedness incurred to finance any portion of the Portfolio; *provided* that nothing in this provision shall preclude, or be deemed to stop, the Staff and Services Provider from taking any action prior to the expiration of the aforementioned one year and one day period (or, if longer, the applicable preference period then in effect plus one day) in (i) any case or proceeding voluntarily filed or commenced by the Management Company, or (ii) any involuntary insolvency proceeding filed or commenced against the Management Company by a Person other than the Staff and Services Provider.

(d) The Management Company hereby acknowledges and agrees that the Staff and Services Provider's obligations hereunder shall be solely the corporate obligations of the Staff and Services Provider, and are not the obligations of any employee, member, officer, director or administrator of the Staff and Services Provider and no action may be taken against any such Person in relation to the obligations of the Staff and Services Provider hereunder.

(e) The provisions of this Section 8.03 shall survive termination of this Agreement for any reason whatsoever.

Section 8.04 Governing Law.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas. The Parties unconditionally and irrevocably consent to the exclusive jurisdiction of the courts located in the State of Texas and waive any objection with respect thereto, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

(b) The Parties irrevocably agree for the benefit of each other that the courts of the State of Texas and the United States District Court located in the Northern District of Texas in Dallas are to have exclusive jurisdiction to settle any disputes (whether contractual or non-contractual) which may arise out of or in connection with this Agreement and that accordingly any action arising out of or in connection therewith (together referred to as "Proceedings") may be brought in such courts. The Parties irrevocably submit to the jurisdiction of such courts and waive any objection which they may have now or hereafter to the laying of the venue of any Proceedings in any such court and any claim that any Proceedings have been brought in an inconvenient forum

and further irrevocably agree that a judgment in any Proceedings brought in such courts shall be conclusive and binding upon the Parties and may be enforced in the courts of any other jurisdiction.

Section 8.05 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR ITS ENTERING INTO THIS AGREEMENT.

Section 8.06 Severability. The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties.

Section 8.07 No Waiver. The performance of any condition or obligation imposed upon any Party may be waived only upon the written consent of the Parties. Such waiver shall be limited to the terms thereof and shall not constitute a waiver of any other condition or obligation of the other Party. Any failure by any Party to enforce any provision shall not constitute a waiver of that or any other provision or this Agreement.

Section 8.08 Counterparts. This Agreement may be executed in any number of counterparts by facsimile or other written or electronic form of communication, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the Parties reflected hereon as the signatories.

Section 8.09 Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their permitted assigns and nothing herein express or implied shall give or be construed to give to any Person, other than the Parties hereto and such permitted assigns, any legal or equitable rights hereunder. For avoidance of doubt, this Agreement is not for the benefit or and is not enforceable by any Shared Employee, CLO or Account or any investor (directly or indirectly) in the Management Company.

Section 8.10 No Partnership or Joint Venture. Nothing set forth in this Agreement shall constitute, or be construed to create, an employment relationship, a partnership or a joint venture between the Parties. Except as expressly provided herein or in any other written agreement between the Parties, no Party has any authority, express or implied, to bind or to incur liabilities on behalf of, or in the name of, any other Party.

Section 8.11 Independent Contractor. Notwithstanding anything to the contrary, the Staff and Services Provider shall be deemed to be an independent contractor and, except as

expressly provided or authorized herein, shall have no authority to act for or represent the Management Company or any CLO or Account in which the Management Company acts as portfolio manager or investment manager or in a similar capacity in any manner or otherwise be deemed an agent of the Management Company or any CLO or Account in which the Management Company acts as portfolio manager or investment manager or in a similar capacity.

Section 8.12 Written Disclosure Statement. The Management Company acknowledges receipt of Part 2 of the Staff and Services Provider's Form ADV, as required by Rule 204-3 under the Advisers Act, on or before the date of execution of this Agreement.

Section 8.13 Headings. The descriptive headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 8.14 Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between the Parties with respect to such subject matter.

Section 8.15 Notices. Any notice or demand to any Party to be given, made or served for any purposes under this Agreement shall be given, made or served by sending the same by overnight mail or email transmission or by delivering it by hand as follows:

(a) If to the Management Company:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

(b) If to the Staff and Services Provider:

Highland Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

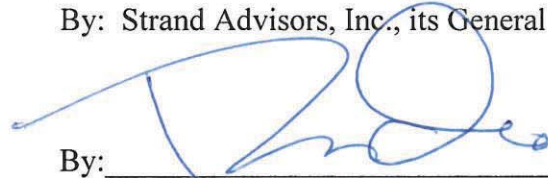
or to such other address or email address as shall have been notified to the other Parties.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
as the Sub-Advisor

By: Strand Advisors, Inc., its General Partner




By: _____

Name: James Dondero

Title: President

ACIS CAPITAL MANAGEMENT, L.P.,
as the Management Company

By: Acis Capital Management GP, LLC, its General Partner



By: _____

Name: James Dondero

Title: President

Appendix A

The Management Company shall pay to the Staff and Services Provider a Staff and Services Fee for the services for the CLOs or Accounts in an amount equal to the aggregate management fees that would be received by the Management Company for such CLOs or Accounts if such management fees were calculated in exact conformity with the calculation of management fees for such CLOs or Accounts, except that the management fee rates applied in such calculation were replaced by the fee rate set forth in the following table. Such fees shall be payable promptly (or at such time as is otherwise agreed by the parties) following the Management Company's receipt of management fees for such CLOs or Accounts, it being understood that none of the foregoing shall prohibit the Management Company from waiving or entering into side letters with respect to management fees for such CLOs or Accounts; provided that any such waived or reduced amounts shall not be recognized for purposes of calculating the fees payable by the Management Company hereunder. Notwithstanding the foregoing, the parties may agree to a different allocation from that set forth during any period in order to reflect the then current fair market value of the Services rendered.

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Issuer / Borrower / Fund / Account	Management Agreement	Related Agreements	Date of Management Agreement	Annualized Staff and Services Fee Rate (bps)
Hewett's Island CLO I-R, Ltd.	Management Agreement	Indenture	November 20, 2007	15
Acis CLO 2013- 1 Ltd.	Portfolio Management Agreement	Indenture	March 18, 2013	15
Acis CLO 2013- 2 Ltd.	Portfolio Management Agreement	Indenture	October 3, 2013	15
Acis CLO 2014- 3 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	February 25, 2014	15
Acis CLO 2014- 4 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	June 5, 2014	15
Acis CLO 2014- 5 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	November 18, 2014	15
Acis CLO 2015- 6 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	April 16, 2015	15
BayVK R2 Lux S.A., SICAV- FIS	Agreement for the Outsourcing of the Asset Management	Service Level Agreement	February 27, 2015	15
Acis Loan Funding, Ltd.	Portfolio Management Agreement		August 10, 2015	0

EXHIBIT 4

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
Ira D. Kharasch (CA Bar No. 109084) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD & ASSOCIATES PLLC
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Fax: (972) 755-7110

Counsel for the Debtor and Debtor-in-Possession

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

_____)
In re:) Chapter 11
)
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹) Case No. 19-34054-sgj11
)
Debtor.)
_____)

**DECLARATION OF GREGORY V. DEMO IN SUPPORT OF THE DEBTOR'S
MOTION FOR ENTRY OF AN ORDER APPROVING SETTLEMENT WITH (A) ACIS
CAPITAL MANAGEMENT, L.P. AND ACIS CAPITAL MANAGEMENT GP LLC
(CLAIM NO. 23), (B) JOSHUA N. TERRY AND JENNIFER G. TERRY (CLAIM
NO. 156), AND (C) ACIS CAPITAL MANAGEMENT, L.P. (CLAIM NO. 159), AND
AUTHORIZING ACTIONS CONSISTENT THEREWITH**

¹ 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.



I, Gregory V. Demo, pursuant to 28 U.S.C. § 1746(a), under penalty of perjury, declare as follows:

1. I am an attorney at the law firm Pachulski, Stang, Ziehl & Jones LLP, counsel to the above-referenced Debtor, and I submit this Declaration in support of the *Debtor's Motion for Entry of an Order Approving Settlement with (a) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (b) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (c) Acis Capital Management, L.P. (Claim No. 159) and Authorizing Actions Consistent Therewith* being filed concurrently with this Declaration. I submit this Declaration based on my personal knowledge and review of the documents listed below.

2. Attached as **Exhibit 1** is a true and correct copy of a Settlement Agreement entered into as of September 9, 2020, by and among (i) Highland Capital Management, L.P. ("**HCMLP**"), (ii) Acis Capital Management L.P. ("**Acis LP**"), (iii) Acis Capital Management GP, LLC ("**Acis GP**"), (iv) Joshua N. Terry, individually and for the benefit of his retirement accounts, and (v) Jennifer G. Terry, individually and for the benefit of her individual accounts and as trustee of the Terry Family 401-k Plan.

3. Attached as **Exhibit 2** is a true and correct copy of a General Release entered into by and among (i) HCMLP, (ii) Joshua N. Terry, individually and for the benefit of his retirement accounts, and Jennifer G. Terry, individually and for the benefit of her individual accounts and as trustee of the Terry Family 401-k Plan, (iii) Acis LP and Acis GP, and (iv) certain employees.

[Signature Page Follows]

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: September 23, 2020.

/s/ Gregory V. Demo
Gregory V. Demo

EXHIBIT 1

SETTLEMENT AGREEMENT

This Settlement Agreement, including all attachments, (the “Agreement”) is entered into as of September 9, 2020, by and among (i) Highland Capital Management, L.P. (“HCMLP”); (ii) Acis Capital Management, L.P. (“Acis LP”); (iii) Acis Capital Management GP LLC (“Acis GP” and together with Acis LP, “Acis”); (iv) Joshua N. Terry, individually and for the benefit of his individual retirement accounts, and (v) Jennifer G. Terry, individually and for the benefit of her individual retirement accounts and as trustee of the Terry Family 401-K Plan

Each of the foregoing are sometimes referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

WHEREAS, on August 3, 2020, the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) entered an *Order Directing Mediation* [Docket No. 912] pursuant to which HCMLP, Acis Capital Management L.P., and Acis Capital Management GP, LLC (together, the “Mediation Parties”), among others, were directed to mediate their disputes before Retired Judge Allan Gropper and Sylvia Mayer (together, the “Mediators”); and

WHEREAS, during the mediation, the Mediators made an economic proposal to resolve the Claims (the “Mediators’ Economic Proposal”), and each of the Mediation Parties accepted the Mediators’ Economic Proposal; and

WHEREAS, the Parties have negotiated and executed that certain General Release, dated as of even date herewith (the “Release”),¹ which, among other things, releases the Acis Released Claims and the HCMLP Released Claims; and

WHEREAS, the Parties desire to enter into this Agreement which incorporates, formalizes, and finalizes the Mediators’ Economic Proposal and which, when combined with the Release, will fully and finally resolve the Claims; and

WHEREAS, this Agreement and the Release attached hereto will be presented to the Bankruptcy Court for approval pursuant to Federal Rule of Bankruptcy Procedure 9019 (“Rule 9019”);

NOW THEREFORE, in consideration of the above recitals, the covenants, conditions, and promises made herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Settlement of Claims.** In full and complete satisfaction of the Claims:

(a) The proof of claim filed by Acis in the HCMLP Bankruptcy Case on December 31, 2019 [Claim No. 23] will be allowed in the amount of \$23,000,000 as a general unsecured claim;

¹ All capitalized terms used but not defined herein have the meanings given to them in the Release.

(b) On the effective date of a plan of reorganization and confirmed by the Bankruptcy Court, HCMLP will pay in cash to:

(i) Joshua N. Terry and Jennifer G. Terry \$425,000, plus 10% simple interest (calculated on the basis of a 360-day year from and including June 30, 2016), in full and complete satisfaction of the proof of claim filed in the HCMLP Bankruptcy Case by Joshua N. Terry and Jennifer G. Terry on April 8, 2020 [Claim No. 156];

(ii) Acis LP \$97,000, which amount represents the legal fees incurred by Acis LP with respect to *NWCC, LLC v. Highland CLO Management, LLC, et al.*, Index No. 654195-2018 (N.Y. Sup. Ct. 2018), in full and complete satisfaction of the proof of claim filed by Acis LP in the HCMLP Bankruptcy Case on April 8, 2020 [Claim No. 159];

(iii) Joshua N. Terry \$355,000 in full and complete satisfaction of the legal fees assessed against Highland CLO Funding, Ltd., in *Highland CLO Funding v. Joshua Terry*, [No Case Number], pending in the Royal Court of the Island of Guernsey;

(c) On the effective date of a plan of reorganization proposed by HCMLP and confirmed by the Bankruptcy Court, if HCMLP receives written advice of nationally recognized external counsel that it is legally permissible consistent with HCMLP's contractual and legal duties to transfer all of its direct and indirect right, title and interest in Highland HCF Advisor, Ltd. to Acis or its nominee and that doing so would not reasonably subject HCMLP to liability, HCMLP shall transfer all of its right, title and interest in Highland HCF Advisor, Ltd., whether its ownership is direct or indirect, to Acis or its nominee, subject at all times to Acis's right to unilaterally reject the transfer in its sole and absolute discretion;

(d) Within five (5) days of the Agreement Effective Date, HCMLP shall:

(i) Move to withdraw, with prejudice, its proof of claim [Claim No. 27] filed in *In re Acis Capital Management, L.P.*, Case No. 18-30264-sgj11 (Bankr. N.D. Tex. 2018), and its proof of claim [Claim No. 13] filed in *In re Acis Capital Management GP, LLC*, Case No. 18-30265-sgj11 (Bankr. N.D. Tex. 2018);

(ii) Move to withdraw, with prejudice, Highland Capital Management, L.P.'s Application for Administrative Expense Claim Pursuant to 11 U.S.C. § 503(b) filed in the Acis Bankruptcy Case [Docket No. 772];

(e) At all times after the execution of this Agreement:

(i) Only to the extent reasonably necessary to maintain the status quo in the Acis Appeals, the Parties shall cooperate in seeking to abate or otherwise stay the Acis Appeals vis-à-vis the Parties pending the occurrence of the Agreement Effective Date; and

(ii) HCMLP shall cooperate in good faith to promptly return to Acis all property of Acis that is in HCMLP's possession, custody, or control, including but not limited to e-mail communications.

2. **Releases.** The Release is (a) attached to this Agreement as **Appendix A**; (b) an integral component of the Mediator’s Economic Proposal and (c) incorporated by reference into this Agreement as if fully set forth herein.

3. **Agreement Subject to Bankruptcy Court Approval.**

(a) The effectiveness of this Agreement and the Parties’ obligations hereunder are conditioned in all respects on the approval of this Agreement and the Release by the Bankruptcy Court. The Parties agree to use reasonable efforts to have this Agreement and the Release expeditiously approved by the Bankruptcy Court by cooperating in the preparation and prosecution of a mutually agreeable motion and proposed order. The “Agreement Effective Date” will be the date of an order entered by the Bankruptcy Court approving this Agreement pursuant to a motion filed under Rule 9019.

(b) The Parties acknowledge and agree that the terms and conditions of this Agreement are conditioned, in all respects, on the execution of the Release by the Parties and the approval of the Release and this Agreement by the Bankruptcy Court. If either the Release or this Settlement Agreement are not approved by the Bankruptcy Court for any reason, this Agreement and the Release will be immediately null and void and of no further force and effect.

4. **Representations and Warranties.** Subject in all respects to Section 3, each Party represents and warrants to the other Party that such Party is fully authorized to enter into and perform the terms of this Agreement and that, as of the Agreement Effective Date, this Agreement and the Release will be fully binding upon each Party in accordance with their terms.

5. **No Admission of Liability.** The Parties acknowledge that there is a bona fide dispute with respect to the Claims. Nothing in this Agreement will imply, an admission of liability, fault or wrongdoing by HCMLP, the Acis Parties, or any other person, and the execution of this Agreement does not constitute an admission of liability, fault, or wrongdoing on the part of HCMLP, the Acis Parties, or any other person.

6. **Successors-in-Interest.** This Agreement shall be binding upon and shall inure to the benefit of each of the Parties and their representatives, successors, and assigns, including but not limited to any Chapter 7 trustee appointed for HCMLP.

7. **Notice.** Each notice and other communication hereunder will be in writing and will be sent by email and delivered or mailed by registered mail, receipt requested, and will be deemed to have been given on the date of its delivery, if delivered, and on the fifth full business day following the date of the mailing, if mailed to each of the Parties thereto at the following respective addresses or such other address as may be specified in any notice delivered or mailed as set forth below:

Acis

Acis Capital Management, LP
4514 Cole Avenue
Suite 600
Dallas, Texas 75205

Attention: Joshua N. Terry
Email: josh@aciscm.com

with a copy (which shall not constitute notice) to:

ROGGE DUNN GROUP, P.C.
500 N. Akard Street, Suite 1900
Dallas, Texas 75201
Attention: Brian P. Shaw
Telephone No.: 214.239.2707
E-mail: shaw@roggedunngroup.com

Joshua N. Terry and Jennifer G. Terry

25 Highland Park Village, Suite 100-848
Dallas TX 75205
Attention: Joshua N. Terry
Email: joshuanterry@gmail.com

with a copy (which shall not constitute notice) to:

ROGGE DUNN GROUP, P.C.
500 N. Akard Street, Suite 1900
Dallas, Texas 75201
Attention: Brian P. Shaw
Telephone No.: 214.239.2707
E-mail: shaw@roggedunngroup.com

HCMLP

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: Legal Department
Telephone No.: 972-628-4100
Facsimile No.: 972-628-4147
E-mail: notices@HighlandCapital.com

with a copy (which shall not constitute notice) to:

Pachulski Stang Ziehl & Jones LLP
Attention: Jeffrey Pomerantz, Esq.
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone No.: 310-277-6910

Facsimile No.: 310-201-0760
E-mail: jpomerantz@pszjlaw.com

8. **Advice of Counsel.** Each of the Parties represents that such Party has: (a) been adequately represented by independent legal counsel of its own choice, throughout all of the negotiations that preceded the execution of this Agreement; (b) executed this Agreement upon the advice of such counsel; (c) read this Agreement, and understands and assents to all the terms and conditions contained herein without any reservations; and (d) had the opportunity to have this Agreement and all the terms and conditions contained herein explained by independent counsel, who has answered any and all questions asked of such counsel, or which could have been asked of such counsel, including, but not limited to, with regard to the meaning and effect of any of the provisions of this Agreement.

9. **Entire Agreement.** This Agreement contains the entire agreement and understanding concerning the subject matter of this Agreement, and supersedes and replaces all prior negotiations and agreements, written or oral and executed or unexecuted, concerning such subject matter. Each of the Parties acknowledges that no other Party, nor any agent of or attorney for any such Party, has made any promise, representation or warranty, express or implied, written or oral, not otherwise contained in this Agreement to induce any Party to execute this Agreement. The Parties further acknowledge that they are not executing this Agreement in reliance on any promise, representation or warranty not contained in this Agreement, and that any such reliance would be unreasonable. This Agreement will not be waived or modified except by an agreement in writing signed by each Party or duly authorized representative of each Party.

10. **No Party Deemed Drafter.** The Parties acknowledge that the terms of this Agreement are contractual and are the result of arms'-length negotiations between the Parties and their chosen counsel. Each Party and its counsel cooperated in the drafting and preparation of this Agreement. In any construction to be made of this Agreement, the Agreement will not be construed against any Party.

11. **Future Cooperation.** The Parties agree to cooperate and execute such further documentation as is reasonably necessary to effectuate the intent of this Agreement.

12. **Counterparts.** This Agreement may be executed in counterparts with the same force and effect as if executed in one complete document. Each Party's signature hereto will signify acceptance of, and agreement to, the terms and provisions contained in this Agreement. Photographic, electronic, and facsimile copies of signed counterparts may be used in lieu of the originals of this Agreement for any purpose.


13. **Governing Law; Venue; Attorneys' Fees and Costs.** The Parties agree that this Agreement will be governed by and will be construed according to the laws of the State of Texas without regard to conflict-of-law principles. Each of the Parties hereby submits to the exclusive jurisdiction of the Bankruptcy Court during the pendency of the HCMLP Bankruptcy Case and thereafter to the exclusive jurisdiction of the state and federal courts located in the Northern District of Texas, Dallas Division, with respect to any disputes arising from or out of this

Agreement. In any action to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable and necessary attorneys' fees and costs (including experts).


[Remainder of Page Intentionally Blank]

IT IS HEREBY AGREED.


ACIS CAPITAL MANAGEMENT, L.P.

By: 
Name: Joshua N. Terry
Its: President


ACIS CAPITAL MANAGEMENT GP LLC

By: 
Name: Joshua N. Terry
Its: President

JOSHUA N. TERRY

By: 
Name: Joshua N. Terry
Its: Self

JENNIFER G. TERRY

By: 
Name: Jennifer G. Terry
Its: Self

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: _____
Its: _____

IT IS HEREBY AGREED.

ACIS CAPITAL MANAGEMENT, L.P.

By: _____
Name: _____
Its: _____

ACIS CAPITAL MANAGEMENT GP LLC

By: _____
Name: _____
Its: _____

JOSHUA N. TERRY

By: _____
Name: _____
Its: _____

JENNIFER G. TERRY

By: _____
Name: _____
Its: _____

HIGHLAND CAPITAL MANAGEMENT, L.P.


By: 
Name: TRAVIS P. SORELY, JR
Its: CEO/COO

EXHIBIT 2

GENERAL RELEASE

This GENERAL RELEASE (this “Release”), effective on the Effective Date (as defined below), is entered into by and among (i) Highland Capital Management, L.P. (“HCMLP”), (ii) Joshua N. Terry, individually and for the benefit of his individual retirement accounts, Jennifer G. Terry, individually and for the benefit of her individual retirement accounts and as trustee of the Terry Family 401-K Plan (collectively, the “Terry Parties”), (iii) Acis Capital Management L.P., and Acis Capital Management GP, LLC (collectively, “Acis”) (the Terry Parties and Acis, collectively, the “Acis Parties”), and (iii) those HCMLP Specified Parties (as defined below) who execute this Release (together, the “Parties”).

RECITALS

WHEREAS, the Parties have asserted or may assert claims that are defined in Section 1 below as the “Acis Released Claims” and the “HCMLP Released Claims” (collectively, the “Claims”); and

WHEREAS, on August 3, 2020, the United States Bankruptcy Court for the Northern District of Texas (the “Court”) entered an *Order Directing Mediation* [Docket No. 912] pursuant to which HCMLP, Acis Capital Management L.P., and Acis Capital Management GP, LLC (together, the “Mediation Parties”), among others, were directed to mediate their disputes before Retired Judge Allan Gropper and Sylvia Mayer (together, the “Mediators”); and

WHEREAS, during the mediation, the Mediators made an economic proposal to resolve the Claims (the “Mediators’ Economic Proposal”), and each of the Mediation Parties accepted the Mediators’ Economic Proposal; and

WHEREAS, the Parties desire to enter into a general release of all Claims which, when combined with the Mediators’ Economic Proposal, will fully and finally resolve the Claims; and

WHEREAS, except in Section 1.c below, this is a general release, meaning the Parties intend hereby to release any and all Claims which the Parties can release, and the Parties are unaware of any Claims between them which are not being released herein; and

WHEREAS, this Release will be appended or otherwise incorporated into a written settlement agreement (the “Settlement Agreement”) that will include the terms of the Mediators’ Economic Proposal and will be presented to the Court for approval pursuant to Federal Rule of Bankruptcy Procedure 9019 (“Rule 9019”), and is only effective upon the Effective Date.

NOW, THEREFORE, after good-faith, arms-length negotiations, and in consideration of the promises made herein and in the Mediators’ Economic Proposal, the Parties agree to release each other pursuant to and in accordance with the terms and conditions set forth below.

AGREEMENT

1. Releases.

a. Upon the Effective Date, and to the maximum extent permitted by law, and except as set forth in Section 1d below, each of the Acis Parties on behalf of himself, herself, or itself and each of their respective current or former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (A)(i) HCMLP; (ii) Strand; (iii) any entity of which greater than fifty percent of the voting ownership is held directly or indirectly by HCMLP and any entity otherwise controlled by HCMLP; and (iv) any entity managed by either HCMLP or a direct or indirect subsidiary of HCMLP (the foregoing (A)(i) through (A)(iv) the “HCMLP Entities”) and (B) with respect to each such HCMLP Entity, such HCMLP Entity’s respective current advisors, trustees, directors, officers, managers, members, partners, current or former employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the “HCMLP Parties,” and together with the HCMLP Entities, the “HCMLP Released Parties”), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Filed Cases, including the proofs of claim [Claim No. 23; 156; 159] filed by the Acis Parties in the HCMLP Bankruptcy Case and any objections or potential objections to the Plan or the confirmation thereof (collectively, the “Acis Released Claims”). This release is intended to be general. Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties **shall not** include NexPoint Advisors (and any of its subsidiaries), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd.), Highland CLO Funding, Ltd. (and any of its subsidiaries), NexBank, SSB (and any of its subsidiaries), James Dondero, Hunter Mountain Investment Trust (or any trustee acting for the trust), Dugaboy Investment Trust (or any trustee acting for the trust), Grant Scott, David Simek, William Scott, Heather Bestwick, Mark Okada and his family trusts (and the trustees for such trusts in their representative capacities), McKool Smith, PC, Gary Cruciani, Lackey Hershman, LLP, Jamie Welton, or Paul Lackey.

b. Upon the Effective Date, and to the maximum extent permitted by law, each HCMLP Released Party hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue the (A) Acis Parties, (B) Acis CLO 2013-1Ltd., Acis CLO 2014-3 Ltd., Acis CLO 2014-4 Ltd., Acis CLO 2014-5 Ltd., Acis CLO 2015-6 Ltd. (collectively, the “Acis CLOs”), and (C) with respect to each such Acis Party and Acis CLO, to the extent applicable, such Acis Party and Acis CLO, their respective current advisors, trustees, directors, officers, managers, members, partners, current or former employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents,

affiliates, successors, designees, and assigns (the foregoing (A), (B), and (C), the “Acis Released Parties”), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Filed Cases (collectively, the “HCMLP Released Claims”). This release is intended to be general. Notwithstanding anything contained herein to the contrary, this Section 1.b will not affect any right to payment under any notes, debt, equity, or other security issued by any Acis CLO and held by any HCMLP Released Party.

c. The HCMLP Released Parties shall also hereby forever, finally, fully, unconditionally, and completely release, relieve, acquit, remise, and exonerate, and covenant never to sue (A) U.S. Bank National Association, Moody’s Investor Services, Inc., and Brigade Capital Management, Inc. and (B) with respect to each such DAF Suit Defendant, to the extent applicable, such DAF Suit Defendant, their respective current advisors, trustees, directors, officers, managers, members, partners, current or former employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (the foregoing (A) and (B), the “DAF Suit Defendants”), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, which were or could have been asserted in, in connection with, or with respect to the DAF Lawsuits. This release is not intended to be general.

d. Notwithstanding anything herein to the contrary, if (A) any HCMLP Specified Party has not executed this Release on or before the Effective Date or (B) any HCMLP Released Party, including any HCMLP Specified Party, (i) sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten any Acis Released Party on or in connection with any HCMLP Released Claim or any other claim or cause of action arising prior to the date of this Release, (ii) takes any action that, in HCMLP’s reasonable judgment, impairs or harms the value of HCMLP, its estate, and its assets; or (iii) in HCMLP’s reasonable judgment fails to use commercially reasonable efforts to support confirmation of the Plan and/or the monetization of HCMLP’s assets at their maximum value, then (a) such HCMLP Released Party (and only such HCMLP Released Party) will be deemed to have waived (x) the release and all other protections set forth in Section 1a hereof and will have no further rights, duties, or protections under this Release and (y) any releases set forth in the Plan, (b) the Acis Released Parties, as applicable, may, in their discretion, assert any and all Acis Released Claims against such HCMLP Released Party (and only such HCMLP Released Party), and (c) any statutes of limitation or other similar defenses are tolled against such HCMLP Released Party (and only such HCMLP Released Party) from the execution of this Release until ninety (90) days after the Acis Released Parties receive actual written notice of any violation of this Section 1d. For the avoidance of doubt, by signing this Release each of the HCMLP Specified Parties is

acknowledging and agreeing, without limitation, to the terms of this Section 1.d and the tolling agreement set forth herein.

2. Withdrawal/Dismissal of Filed Cases. Within five days of the Effective Date, each Acis Released Party and HCMLP Released Party, to the extent applicable, will coordinate to cause the Filed Cases, including any appeals of any Filed Cases, to be dismissed with prejudice as to any Acis Released Party or HCMLP Released Party; *provided, however*, that there is no obligation to dismiss or withdraw the HCMLP Bankruptcy Case. For the avoidance of doubt, and consistent with this Section, (a) if HCMLP receives written advice of nationally recognized external counsel that it is legally permissible consistent with HCMLP's contractual and legal duties to direct Neutra, Ltd. to move to dismiss all of their appeals arising from the Acis Bankruptcy and that doing so would not reasonably subject HCMLP to liability, HCMLP shall direct Neutra, Ltd. to move to dismiss all of their appeals arising from the Acis Bankruptcy and (b) Acis shall move to dismiss with prejudice its claims against HCMLP asserted in any adversary proceeding in the Acis Bankruptcy Case. To the extent reasonably necessary to maintain the status quo in the Filed Cases, including any appeals thereof, prior to the Effective Date, each Acis Released Party and HCMLP Released Party shall reasonably cooperate in seeking to abate or otherwise stay the Filed Cases vis-à-vis the Parties.

3. Representations and Warranties.

a. Each of the Acis Parties represents and warrants to each of the HCMLP Released Parties and each of the HCMLP Specified Parties who have signed this Release that (a) he, she or it has full authority to release the Acis Released Claims and has not sold, transferred, or assigned any Acis Released Claim to any other person or entity, and that (b) to the best of his, her or its current knowledge, no person or entity other than the Acis Parties has been, is, or will be authorized to bring, pursue, or enforce any Acis Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) any of the Acis Parties.

b. Each of HCMLP and each HCMLP Specified Party who has signed this Release represents and warrants to each of the Acis Parties that he, she or it has not sold, transferred, pledged, assigned or hypothecated any HCMLP Released Claim to any other person or entity.

c. Each HCMLP Specified Party and each of HCMLP and Strand represents and warrants to each of the Acis Parties that he, she, or it has full authority to release any HCMLP Released Claims that such HCMLP Specified Party, HCMLP, or Strand personally has against any Acis Party.

d. HCMLP represents and warrants that it is releasing the HCMLP Released Claims on behalf of the HCMLP Entities to the maximum extent permitted by any contractual or other legal rights HCMLP possesses. To the extent any of the HCMLP Entities dispute HCMLP's right to release the HCMLP Released Claims on behalf of any of the HCMLP Entities, HCMLP shall use commercially reasonable efforts to support the Acis Parties' position, if any, that such claims were released herein. For the avoidance of doubt, HCMLP will have no obligations to assist the Acis Parties under this Section if HCMLP has been advised by external counsel that such assistance could subject HCMLP to liability to any third party or if such

assistance would require HCMLP to expend material amounts of time or money. HCMLP shall not argue in any forum that the non-signatory status of any of the HCMLP Entities to this Release shall in any way affect the enforceability of this Release vis-à-vis any of the HCMLP Entities. The Parties agree that all of the HCMLP Entities are intended third-party beneficiaries of this Release.

Notwithstanding anything herein to the contrary, the Acis Parties acknowledge and agree that their sole and exclusive remedy for the breach of the foregoing Sections 3b, 3c, and 3d will be that set forth in Section 1.d hereof.

4. Additional Definitions.

a. “Acis Bankruptcy Case” means, collectively, *In re Acis Capital Management, L.P.*, Case No. 18-30264-sgj11 (Bankr. N.D. Tex. 2018) and *In re Acis Capital Management GP, LLC*, Case No. 18-30265-sgj11 (Bankr. N.D. Tex. 2018)

b. “DAF Lawsuits” means (a) Case No. 1:19-cv-09857-NRB; *The Charitable Donor Advised Fund, L.P. v. U.S. Bank National Association, et al*, formerly pending in the United States District Court for the Southern District of New York; and (b) Case No. 1:20-cv-01036-LGS; *The Charitable Donor Advised Fund, L.P. and CLO Holdco, Ltd. v. U.S. Bank National Association, et al*, formerly pending in the United States District Court for the Southern District of New York.

c. “Effective Date” means the date of an order of the Court approving the Settlement Agreement pursuant to a motion filed under Rule 9019.

d. “Filed Cases” means (a) the HCMLP Bankruptcy Case, (b) *Acis Capital Management, L.P., et al. v. Highland Capital Management, L.P., et al*, Case No. 18-03078 (Bankr. N.D. Tex. 2018); (c) *Motion for Relief from the Automatic Stay to Allow Pursuit of Motion for Order to Show Cause for Violations of the Acis Plan Injunction*, Case No. 19-34054-sgj-11 [Docket No. 593] (Bankr. N.D. Tex. 2020); (d) *Joshua and Jennifer Terry v. Highland Capital Management, L.P., James Dondero and Thomas Surgent*, Case No. DC-16-11396, pending in the 162nd District Court of Dallas County Texas; (e) *Acis Capital Management, L.P., et al v. James Dondero, et al.*, Case No. 20-0360 (Bankruptcy N.D. Tex. 2020); (f) *Acis Capital Management, L.P., et al v. Gary Cruciani, et al.*, Case No. DC-20-05534, pending in the 162nd District Court of Dallas County Texas; (g) *Highland CLO Funding v. Joshua Terry*, [No Case Number], pending in the Royal Court of the Island of Guernsey; and (h) the Acis Bankruptcy Case.

e. “HCMLP Bankruptcy Case” means *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex. 2019).

f. “HCMLP Specified Party” means Scott Ellington, Isaac Leventon, Thomas Surgent, Frank Waterhouse, Jean Paul Sevilla, David Klos, Kristin Hendrix, Timothy Cournoyer, Stephanie Vitiello, Katie Irving, Jon Poglitsch, or Hunter Covitz. For the avoidance of doubt, each HCMLP Specified Party is a HCMLP Released Party.

g. “Plan” means the *Plan of Reorganization of Highland Capital Management, L.P.*, filed in the HCMLP Bankruptcy Case [Docket No. 956] as may be amended or restated.

h. “Strand” means Strand Advisors, Inc.

5. Miscellaneous.

a. For the avoidance of doubt, all rights, duties, and obligations of any HCMLP Released Party or Acis Released Party created by this Release or the Settlement Agreement shall survive its execution.

b. This Release, together with the Settlement Agreement and any exhibits thereto, contains the entire agreement between the Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between the Parties relating thereto.

c. This Release may not be modified other than by a signed writing executed by the Parties.

d. The effectiveness of this Release is subject in all respects to entry of an order of the Court approving this Release and the Settlement Agreement and authorizing HCMLP’s execution thereof.

e. This Release may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument, and shall be effective against a Party upon the Effective Date.

f. This Release will be exclusively governed by and construed and enforced in accordance with the laws of the State of Texas, without regard to its conflicts of law principles, and all claims relating to or arising out of this Release, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Texas, excluding Texas’s conflicts of law principles. The Court will retain exclusive jurisdiction over all disputes relating to this Release. In any action to enforce this Release, the prevailing party shall be entitled to recover its reasonable and necessary attorneys’ fees and costs (including experts).

[SIGNATURE PAGE FOLLOWS]

IT IS HEREBY AGREED.

ACIS CAPITAL MANAGEMENT, L.P.

By: [Signature]
Name: Joshua N. Terry
Its: President

ACIS CAPITAL MANAGEMENT GP LLC

By: [Signature]
Name: Joshua N. Terry
Its: President

JOSHUA N. TERRY

By: [Signature]
Name: Joshua N. Terry
Its: Self

JENNIFER G. TERRY

By: [Signature]
Name: Jennifer G. Terry
Its: Self

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: _____
Its: _____

IT IS HEREBY AGREED.

ACIS CAPITAL MANAGEMENT, L.P.

By: _____
Name: _____
Its: _____

ACIS CAPITAL MANAGEMENT GP LLC

By: _____
Name: _____
Its: _____

JOSHUA N. TERRY

By: _____
Name: _____
Its: _____

JENNIFER G. TERRY

By: _____
Name: _____
Its: _____

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Its: CEO/CFO

HCMLP SPECIFIED PARTIES

SCOTT ELLINGTON

ISAAC LEVENTON

THOMAS SURGENT

FRANK WATERHOUSE

JEAN PAUL SEVILLA

DAVID KLOS

KRISTIN HENDRIX

TIMOTHY COURNOYER

STEPHANIE VITIELLO

KATIE IRVING

JON POGLITSCH

HUNTER COVITZ
