



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

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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 31, 2021

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.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
Plaintiff,

vs.
HUNTER MOUNTAIN INVESTMENT TRUST,
Defendant.

§ Chapter 11
§
§ Case No. 19-34054-sgj11
§
§
§
§ Adversary Proceeding No.
§ 20-03105-sgj
§
§
§
§
§

ORDER APPROVING JOINT STIPULATION OF DISMISSAL WITHOUT PREJUDICE

Having considered the *Joint Stipulation of Dismissal Without Prejudice* [Adv. Docket No. 18] (the "Stipulation"), a copy of which is attached hereto as **Exhibit A**, filed by Highland

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.



Capital Management, L.P. (the “Debtor”) and Hunter Mountain Investment Trust (“Hunter Mountain”) and together with the Debtor, the “Parties”), **IT IS HEREBY ORDERED THAT:**

1. The Stipulation is **APPROVED**.

###End of Order###

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
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Counsel for Hunter Mountain Investment Trust, 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.	§	
	§	

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.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HUNTER MOUNTAIN INVESTMENT TRUST,

Defendant.

§
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§
§
§
§
§
§

Adversary Proceeding No.

20-03105-sgj

JOINT STIPULATION OF DISMISSAL WITHOUT PREJUDICE

Highland Capital Management, L.P. (the “**Debtor**”), the debtor and debtor-in-possession, and Hunter Mountain Investment Trust (“**HMIT**”) enter into this *Joint Stipulation of Dismissal Without Prejudice* (the “**Stipulation**”) pursuant to Rule 7041 of the Federal Rules of Bankruptcy Procedure.

Recitals

Whereas, HMIT timely filed Proof of Claim No. 70 on April 2, 2020 and then filed Proof of Claim No. 152 as an amendment, both in the amount of \$60,298,739, to preserve asserted defenses of common law and contractual setoff (the “**HMIT POC**”);

Whereas, the Debtor on August 26, 2020 commenced Adversary Proceeding No. 20-03105-sgj (the “**Adversary Proceeding**”) by filing and serving 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* (the “**Complaint**”);

Whereas, the Debtor and HMIT entered into that *Stipulation and Proposed Scheduling Order* (the “**Stipulation**”) (AP Docket No. 8) in the Adversary Proceeding (later approved by the Court at AP Docket No. 9), which among other things provided that HMIT “(a) waives its rights, if any, to vote for or against the Plan, whether pursuant to Federal Rule of Bankruptcy Procedure 3018(a) or otherwise; and (b) agrees not to object to or otherwise oppose confirmation of the Plan,

including any amendments thereto (provided that any such amendments do not affect the issues which would be litigated in this Adversary Proceeding);”

Whereas, HMIT complied with the Stipulation and the Court confirmed the Debtor’s *Fifth Amended Plan of Reorganization* (Main Case Docket No. 1943) (the “**Plan**”);

Whereas, HMIT wishes to withdraw the HMIT POC, provided that (a) it retains its asserted defenses of common law and contractual setoff with regard to any action the Debtor may take to enforce its rights under the Contribution Note or the Contribution Agreement (as those terms are defined in the Complaint), and (b) the Debtor dismisses the Adversary Proceeding without prejudice, subject to the Debtor’s right to commence a new adversary proceeding to enforce its rights under the Contribution Note or Contribution Agreement or to otherwise pursue any other cause of action against HMIT; and

Whereas, HMIT and the Debtor agree that this Stipulation meets the requirements of Rule 7041 of the Federal Rules of Bankruptcy Procedure and case law construing the requirements for a dismissal without prejudice after HMIT timely filed its answer in the Adversary Proceeding.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Court, it shall be SO ORDERED:

1. The Adversary Proceeding is hereby dismissed without prejudice; and
2. This dismissal shall have no effect on the Debtor’s ability to later commence a new adversary proceeding to enforce its rights under the Contribution Note or the Contribution Agreement (as those terms are defined in the Complaint) or to otherwise pursue any other cause of action against HMIT.

Dated March 31, 2021.

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