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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P., ¹ Debtor.	Chapter 11 Case No. 19-34054-sgj11
UBS SECURITIES LLC AND UBS AG LONDON BRANCH, Plaintiffs, vs. HIGHLAND CAPITAL MANAGEMENT, L.P., Defendant.	Adversary Proceeding No. 21-03020-sgj

**FORMER EMPLOYEES' WITNESS AND EXHIBIT LIST FOR
THE HEARING SCHEDULED FOR JUNE 24, 2021 AT 2:30 P.M.
(PREVAILING CENTRAL TIME)**

Mary Kathryn Lucas (neé Irving), Jean Paul Sevilla, Scott Ellington, Isaac Leventon, and

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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Matthew DiOrio (collectively, the nonparty “**Former Employees**”), file this Witness and Exhibit List for the hearing scheduled on **Thursday, June 24, 2021 at 2:30 pm.**

Former Employees’ Witness List

At the hearing, Former Employees may call the following persons to testify as witnesses:

1. Any witness designated or called by any other party; and
2. Any rebuttal witnesses, as necessary.

Former Employees’ Exhibit List

EXHIBIT	DESCRIPTION OF EXHIBIT	OFFERED	OBJECTION	ADMITTED
1	Debtor’s Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith [Dkt. No. 2199] filed in Main Case No. 19-34054			
2	Settlement Agreement [Dkt. No. 2200-1] filed in Main Case no. 19-34054			
3	Transcript Excerpts from May 21, 2021 Hearing			
4	Order Approving Debtor’s Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith [Dkt. No. 2389] filed in Main Case No. 19-34054			
5	Preservation Demand sent to Matthew DiOrio dated March 30, 2021			
6	Preservation Demand sent to Scott Ellington dated March 30, 2021			
7	Preservation Demand sent to Mary Kathryn (Lucas) Irving dated March 30, 2021			
8	Preservation Demand sent to Isaac Leventon dated March 30, 2021			
9	Preservation Demand sent to Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and SS Holdings, Ltd. Dated March 30, 2021			

EXHIBIT	DESCRIPTION OF EXHIBIT	OFFERED	OBJECTION	ADMITTED
10	Preservation Demand sent to Jean Paul Sevilla dated March 30, 2021			
11	Notices of Subpoena and Notice of Deposition directed to Scott Ellington dated April 2, 2021 [Dkt. 75-2] and as amended on April 15, 2021 [Dkt. 75-11]			
12	Notice of Subpoena and Notice of Deposition directed to Isaac Leventon dated April 2, 2021 [Dkt. 75-3] and as amended on April 15, 2021 [Dkt. 75-12]			
13	Notice of Subpoena and Notice of Deposition directed to Matt DiOrio dated April 2, 2021 [Dkt. 75-4] and as amended on April 15, 2021 [Dkt. 75-13]			
14	Notice of Subpoena and Notice of Deposition directed to Jean Paul Sevilla dated April 2, 2021 [Dkt. 75-5] and as amended on April 15, 2021 [Dkt. 75-14]			
15	Notice of Subpoena and Notice of Deposition directed to Mary Kathryn Lucas dated April 2, 2021 [Dkt. 75-6] and as amended on April 15, 2021 [Dkt. 75-15]			
16	Original Complaint for Injunctive Relief [filed under seal]			
17	Order Granting Plaintiff's Motion for Temporary Restraining Order [Dkt. No. 21]			
18	Stipulation Extending Deadline for Debtor to Answer or Otherwise Respond to Complaint [Dkt. No. 52]			
19	Order Approving Stipulation Extending Deadline for Debtor to Answer or Otherwise Respond to Complaint [Dkt. No. 53]			
20	Stipulation and Proposed Scheduling Order [Dkt. No. 69]			
21	Defendant's Answer to Complaint [Dkt. No. 84]			
22	Letter from Frances Smith to Counsel for Highland Capital Management, LP			

EXHIBIT	DESCRIPTION OF EXHIBIT	OFFERED	OBJECTION	ADMITTED
	dated May 10, 2021			
23	Email Exchanges between Eric Soderlund and Counsel for UBS dated May 15, 2021 to May 20, 2021 [Dkt. No. 75-24			
24	Transcript of Proceedings April 28, 2021			
	Any exhibits produced by the Debtor or other third party after the filing of this Witness and Exhibit List			
	Any exhibits designated by any other party			
	Any exhibits necessary and appropriate as rebuttal evidence			

Dated: June 21, 2021

/s/ Frances A. Smith

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 MARY KATHRYN LUCAS (né IRVING),
 JOHN PAUL SEVILLA, SCOTT ELLINGTON,
 ISAAC LEVENTON, AND MATTHEW
 DIORIO**

CERTIFICATE OF SERVICE

I certify that on this 21st day of June 2021, a true and correct copy of the foregoing was served via ECF-Electronic Notice on all parties receiving ECF-Notice in this case.

/s/ Frances Smith
 Frances Smith



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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. §

**DEBTOR’S MOTION FOR ENTRY OF AN ORDER APPROVING
SETTLEMENT WITH UBS SECURITIES LLC AND UBS AG LONDON BRANCH
AND AUTHORIZING ACTIONS CONSISTENT THEREWITH**

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.

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**TO THE HONORABLE STACEY G. C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE:**

Highland Capital Management, L.P., the debtor and debtor-in-possession (the “Debtor”) in the above-captioned chapter 11 case (the “Bankruptcy Case”), files this Motion (the “Motion”) for entry of an order pursuant to sections 105(a) and 363 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), substantially in the form attached hereto as **Exhibit A**, approving a settlement agreement (the “Settlement Agreement”)² entered into between the Debtor and certain related parties, on the one hand, and UBS Securities LLC and UBS AG London Branch (collectively, “UBS”), on the other hand. A copy of the Settlement Agreement is attached as **Exhibit 1** to the *Declaration of Robert J. Feinstein in Support of the Debtor’s Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith* (“Feinstein Declaration”), filed concurrently herewith. In support of this Motion, the Debtor respectfully states as follows:

INTRODUCTION

1. The Settlement Agreement resolves more than \$1 billion in claims that UBS filed in the Bankruptcy Case (collectively, the “UBS Claim”), as well as UBS’s claims against certain related parties that have been pending for more than a decade in the Supreme Court of the State of New York, County of New York (the “State Court”).³ The UBS Claim arises from: (i) a judgment entered by the State Court against Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”) and Highland Special Opportunities Holding Company (“SOHC,” and together with CDO

² Capitalized terms used herein, but not defined, have the meanings ascribed to such terms in the Settlement Agreement or elsewhere in this Motion, as applicable.

³ The UBS Claim includes (i) Claim No. 190 filed by UBS Securities LLC, attached as **Exhibit 2** to the Feinstein Declaration, and (ii) Claim No. 191 filed by UBS AG London Branch, attached as **Exhibit 3** to the Feinstein Declaration.

Fund, the “Funds”) and (ii) related claims against the Debtor and other funds managed by the Debtor.

2. The Settlement Agreement provides for the allowance of the UBS Claim as (i) a single general unsecured claim in the amount of \$65,000,000 against the Debtor, which will be treated as a Class 8 General Unsecured Claim under the Plan,⁴ and (ii) a single subordinated unsecured claim in the amount of \$60,000,000 against the Debtor, which will be treated as a Class 9 Subordinated General Unsecured Claim under the Plan. The Settlement Agreement also provides for a payment of \$18,500,000 to UBS by Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat”), a non-Debtor fund managed by the Debtor that is a co-defendant in the State Court litigation. In exchange for the allowance of the UBS Claim as set forth above and the payment by Multi-Strat, UBS will, among other things, release claims against the Debtor, Multi-Strat, and the Debtor’s general partner, Strand Advisors, Inc. (“Strand”), also named as a defendant in the State Court litigation, as described in Section 3 of the Settlement Agreement. The Settlement Agreement also obligates the Debtor to assist UBS in its collection efforts against the Funds in the State Court litigation and its pursuit of other claims, subject to a cap on its expenses of \$3,000,000, provided that, to the extent provided for in Section 1(c) of the Settlement Agreement, for every dollar UBS recovers from the Funds (other than certain of the preferred shares issued by Greenbriar CLO Ltd. or Greenbriar CLO Corp. (collectively, “Greenbriar”), Sentinel Reinsurance, Ltd. (“Sentinel”), Multi-Strat (other than the initial payment of \$18,500,000 referred to above), or any other person or entity described in Section 1(c)(iii) of the Settlement Agreement (the “UBS Recovery”), UBS will reimburse HCMLP ten percent of the UBS Recovery for the Reimbursable Expenses incurred by HCMLP.

⁴ As used herein, the term “Plan” refers to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Dkt. No. 1808], as may be amended, supplemented, or restated.

3. The Settlement Agreement is the product of extensive arms-length negotiations among the parties and their counsel, as well as multiple mediation sessions with Judge Allan L. Gropper (Ret.) and Sylvia A. Mayer (together, the “Mediators”). Moreover, the parties had the benefit of this Court’s decision on the motions for partial summary judgment filed by the Debtor and the Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”), and the Court’s ruling on UBS’s motion to temporarily allow its claim for voting purposes. After the Debtor, Redeemer Committee, and UBS submitted comprehensive briefing and voluminous exhibits, and the Court heard approximately five hours of argument, the Court granted the partial summary judgment motions to the extent set forth in its December 9, 2020 Order, and temporarily allowed the UBS Claim for the purposes of voting in the amount of \$94,761,076 (the “UBS Rulings”). Of that amount, approximately \$43,000,000 (inclusive of pre-judgment interest) related to transfers made to Multi-Strat, based on the Court estimating a 90% chance that UBS would prevail on that portion of its claim (under either a fraudulent conveyance or breach of implied covenant theory).

4. After the mediation and the UBS Rulings, the parties reached an initial settlement in principle. The Debtor disclosed that initial settlement to the Court and parties-in-interest at the February 2, 2021, hearing on confirmation of the Plan. Specifically, with UBS’s consent, the Debtor announced the initial settlement under which UBS was to receive (i) a single Class 8 General Unsecured Claim of \$50,000,000, (ii) a single Class 9 Subordinated General Unsecured Claim of \$25,000,000 (along with \$18,500,000 from Multi-Strat and an agreement to assist UBS, to the extent possible, with the conveyance of CDO Fund’s assets to UBS). Those amounts were well in line with the UBS Rulings and reflected the parties’ respective assessments of the risks of litigating the claims to a final decision based on the then-known facts and the rulings.

5. Notably, among the critical facts predating UBS’s prosecution of its Proof of Claim was information provided to UBS in formal and informal discovery regarding the Funds’

assets. Before the Bankruptcy Case was filed, UBS was advised by the Debtor's prepetition management that the Funds had no material assets. During the course of the Bankruptcy Case, the Debtor's prepetition management – including its general counsel and senior litigation counsel – reiterated those “no asset” representations to the Independent Board,⁵ including claiming that the Funds were “ghost funds” that had no material assets. These representations were, in turn, relayed to UBS.

6. As the recently uncovered facts described below reveal, the representations of the Debtor's prepetition management to UBS prior to the Bankruptcy Case and to the Independent Board *after* the filing of the Bankruptcy Case were fraudulent. The fraudulent representations appear to have been made as part of an orchestrated scheme by former management to hide from the Independent Board and UBS that in August 2017 more than \$300 million in face amount of securities and cash were secretly transferred from the Funds to a related entity owned and controlled by James Dondero and Scott Ellington.

7. The Independent Board's initial investigation into the UBS Claim and the defenses and potential liabilities of the Debtor and its managed and owned funds began in January 2020. The UBS Claim was the largest in the case, and the Independent Board brought intense focus to all of the legal and factual matters surrounding the underlying contracts, the defaults, and the decade-long litigation underlying the UBS Claim. In directing that extensive investigation, the Independent Board instructed Mr. Ellington, Isaac Leventon, and other members of the Debtor's legal department to provide detailed information regarding the history of the transactions, the Funds, and the UBS Claim generally. Mr. Dondero also provided information to the Independent Board regarding the transactions, the Funds, the litigation, and the pre-petition settlement negotiations with UBS. This post-petition information provided by the Debtor's employees

⁵ The term “Independent Board” means the independent board of directors at Strand appointed by this Court on January 9, 2020. See *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*. Dkt. No. 399.

became part of the factual support for the Debtor's objection to the UBS Claim, and undergirded the Debtor's aggressive objection to the UBS Claim.

8. Prior to the mediation, UBS made additional discovery requests of the Debtor and the Funds. James P. Seery, Jr. (a member of the Independent Board and the Debtor's Chief Executive Officer and Chief Restructuring Officer) tasked the Debtor's in-house legal team with providing the responses to UBS's discovery requests. When Mr. Seery and outside counsel pressed the Debtor's employees for a timely response, Mr. Ellington claimed that he and Mr. Leventon were engaged in a "Herculean task" and had spent "in excess of 100 hours trying to piece together everything we can to create a true and accurate document based record of what happened" to the Funds and their assets. Ultimately, Mr. Leventon claimed that substantially all of the assets that had been at the Funds were used to pay the Funds' legal fees incurred in the litigation against UBS. He also provided specific documents purporting to show that certain assets were "written off" with the exception of certain preferred shares in Greenbriar that were supposedly difficult to locate. The Debtor reported the findings to UBS and used the findings in its presentation to the Mediators and this Court. As the Debtor ultimately learned, Mr. Ellington and Mr. Leventon's statements were false and were apparently made as part of a coordinated post-petition conspiracy to cover-up the illegal pre-petition transfers.

9. After the mediation and the UBS Rulings failed to result in a resolution of the UBS Claim, the Debtor and UBS continued to negotiate. During that time, the Debtor was also involved in significant disputes with Mr. Dondero. Upon learning that Mr. Ellington and Mr. Leventon had breached their respective duties to the Debtor by assisting Mr. Dondero's actions against the estate, they were terminated on January 5, 2021. Upon further investigation, in late January 2021, Mr. Seery working in conjunction with the Debtor's bankruptcy advisors, uncovered certain facts and circumstances relating to the Funds that were extremely disturbing.

10. Specifically, the Debtor’s investigation revealed that in or around August 2017, shortly after rulings were issued in favor of UBS in the State Court Action (defined below), and in advance of the impending trial in State Court, Highland’s principal, Mr. Dondero, acting in concert with others then employed by Highland, orchestrated the surreptitious transfer of all or substantially all of the assets of the Funds, among others, which had a face value of more than \$300 million in the aggregate (the “Transferred Assets”), to Sentinel. Sentinel is a Cayman-domiciled entity that, on information and belief, is indirectly owned and controlled by Mr. Dondero and Mr. Ellington.⁶ The transfer of the Funds’ assets appears to be for (at best) a fraction of their total value.⁷ Upon information and belief, the Transferred Assets included, among other assets: (i) CDO Fund’s interest in Multi-Strat that was ostensibly “redeemed” in November 2019 (the “Sentinel Redemption”), and (ii) assets held by CDO Fund related to Greenbriar, Aberdeen Loan Funding Ltd., Eastland CLO Ltd., Grayson CLO Ltd., Valhalla CLO Ltd., and Governance Re, Ltd., including cash payments related to those assets.⁸ The Independent Board disclosed this information to UBS promptly upon its discovery in February 2021. Prior to that disclosure, neither these assets nor the transfers was ever disclosed to UBS.

⁶ On information and belief, Mr. Dondero indirectly owns 70% of Sentinel and Mr. Ellington indirectly owns the remaining 30%. Although Mr. Dondero and Mr. Ellington are the ultimate beneficial owners, their ownership of Sentinel is held through a series of exceedingly complicated intermediate holding and operating companies.

⁷ Highland and the Funds, acting through Mr. Dondero, Mr. Ellington, Mr. Leventon, Jean Paul Sevilla, Matthew DiOrio, Katie Irving, and other Highland employees, fraudulently (or, at a bare minimum, in breach of their fiduciary duties) transferred these assets pursuant to a so-called purchase agreement (the “Purchase Agreement”), purportedly to satisfy a \$25,000,000 premium on a \$100,000,000 “after the event,” legal liability insurance policy issued by Sentinel (the “Insurance Policy”). The Insurance Policy was supposedly intended to insure against an adverse judgment in the UBS State Court Action (defined below), notwithstanding that the Transferred Assets were worth more than both the premium and the policy limit combined.

⁸ The Debtor believes that the timing of both the transfer of the Transferred Assets and the Sentinel Redemption are relevant. In July 2016, the Redeemer Committee commenced its arbitration for, among other things, breach of contract and breach of fiduciary duty against the Debtor. In March 2017 (approximately five months before the Purchase Agreement), the State Court denied the Debtor’s motion for summary judgement as to UBS’s fraudulent transfer claim, among others, and UBS’s suit was being set for trial. In the spring and summer of 2017, Patrick Daugherty and Joshua Terry commenced their own actions against the Debtor or its affiliates. The walls of Mr. Dondero’s fraudulent fortress were under attack. Similarly, in April 2019, Redeemer received its final arbitration award, and in November 2019, the State Court entered its \$1 billion judgment in favor of UBS against the Funds – around the same time that the Sentinel Redemption was ostensibly made.

11. It also became clear to Mr. Seery and the Independent Board that they had been materially misled by a coordinated conspiracy to cover up the fraud, which was engineered by, among others, Mr. Dondero, Mr. Ellington, Mr. Leventon, as in-house senior litigation counsel, and certain other employees of the Debtor.

12. In light of these shocking revelations, UBS sought to reopen the settlement discussions. Due to the potential increased risk of additional monetary exposure to the Debtor's estate, the Debtor agreed to revisit the terms of the settlement and ultimately came to revised terms as reflected in the Settlement Agreement. As revised and incorporated into the Settlement Agreement, UBS will receive an increased allowed Class 8 Claim in the amount of \$65 million, and an increased subordinated Class 9 Claim in the amount of \$60 million. These increases reflect the facts and circumstances recently uncovered which increase the Debtor's potential exposure on UBS's asserted claim for breach of the implied covenant of good faith and fair dealing. While the revised, settled UBS Claim exceeds the total estimate the Court previously provided in the UBS Rulings, the non-subordinated amount of UBS's allowed Class 8 Claim, \$65 million, remains less than the Court's estimate of \$94,761,076. And, while that increased Class 8 Claim is potentially dilutive of the recoveries of other creditors, in the Debtor's judgment, the newly discovered facts increase the risk of UBS obtaining a higher recovery on the UBS Claim if it were litigated to conclusion.

13. The Settlement Agreement reflects informed decisions made by highly sophisticated parties, represented by experienced counsel, taking into account (among other things) the significant litigation risk to both UBS and the Debtor if the parties proceed to trial on UBS's claims against the Debtor, Multi-Strat, and Strand. As just a few examples, and as discussed at length in the parties' submissions and oral argument in connection with the partial summary judgment motions and the 3018 Motion (defined below), a litigated resolution of the UBS Claim would involve (i) a determination as to whether Highland Financial Partners, L.P. ("HFP") was the

alter ego of the Funds that contracted with UBS, (ii) factual and legal disputes as to whether HFP received fair consideration for the allegedly fraudulent transfers at issue, including whether the underlying debt could be recharacterized as equity, and whether the debt was secured, and (iii) vigorously contested issues as to whether the Debtor owed or breached a duty of good faith and fair dealing in connection with the transfers made by HFP or its subsidiaries.

14. There is no guarantee that the Debtor would prevail, particularly in light of the number and variety of complex issues that would need to be determined, the recently uncovered fraud, and the fact that it no longer controls many of the witnesses. Moreover, even if the Debtor ultimately prevailed on most (if not all) of its defenses, the time and expense required to litigate the issues outlined above, and the other issues that would need to be addressed to fully resolve the dispute with UBS, would be a significant drain on the Debtor's estate, with a concomitant detrimental impact on the Debtor's creditors. Absent the Settlement Agreement, further litigation of the UBS Claim would involve substantial (and expensive) pre-trial preparation, a lengthy trial, and likely appeals. The Debtor also would need to defend against UBS's claims against Multi-Strat and Strand in the State Court Action, as the Debtor is the investment manager of Multi-Strat, and Strand has been sued for derivative liability as the Debtor's general partner. It has not yet been determined where those claims would be tried, an issue that itself would generate additional litigation and cause further delay. Any attempt to remove the claims to this Court in all likelihood would be vigorously contested by UBS; and if the claims remained in the State Court, the case could not be tried for the foreseeable future due to the pandemic, particularly if UBS continued to demand a jury trial.

15. The Settlement Agreement ends the Debtor's decade-long dispute with UBS, and avoids the expense, delay, and uncertainty of further litigation on the UBS Claim. The Independent Board, including Mr. Seery, has been intimately involved in the negotiation of the Settlement Agreement and believes it to be a fair and reasonable compromise that undoubtedly is

in the best interests of the Debtor's estate and its creditors. Accordingly, the Debtor respectfully requests that the Court grant this Motion and approve the Settlement Agreement.

JURISDICTION AND VENUE

16. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

17. The statutory predicates for the relief requested herein are sections 105(a) and 363 of the Bankruptcy Code and Bankruptcy Rule 9019.

RELEVANT BACKGROUND

I. The State Court Litigation

18. On February 24, 2009, UBS filed its first complaint against the Debtor and the Funds in an action captioned *UBS Securities LLC, et al. v. Highland Capital Management, L.P., et al.*, Index No. 650097/2009 (N.Y. Sup. Ct.) (the "2009 Action"). In that complaint, UBS asserted an indemnification claim for breach of contract against the Debtor based on restructured warehouse agreements entered into in 2008 among UBS, the Debtor, and the Funds which provided that the Funds, not the Debtor, would bear the risk of any investment losses.

19. UBS's breach of contract claim against the Debtor was dismissed in early 2010. UBS then amended its complaint in the 2009 Action to add new claims and five new defendants, HFP, Multi-Strat, Strand, Highland Credit Strategies Master Funds, L.P. ("Credit Strategies"), and Highland Crusader Offshore Partners, L.P. ("Crusader"). The claims against the new defendants included, among other things, (i) actual and constructive fraudulent transfer claims based on transfers of \$233,455,147 of assets by HFP or its subsidiaries in March 2009, (ii) a claim for declaratory relief against HFP seeking a determination that HFP was the alter ego of one of the Funds, and (iii) a claim against Strand for general partner liability.

20. On June 28, 2010, UBS filed a new, separate action against the Debtor captioned *UBS Securities LLC, et al. v. Highland Capital Management, L.P.*, Index No. 650752/2010 (N.Y. Sup. Ct.) (the “2010 Action”). In the 2010 Action, UBS asserted claims against the Debtor for fraudulent transfer (actual and constructive) and breach of the implied covenant of good faith and fair dealing, alleging that the Debtor received certain of the March 2009 transfers (which UBS alleged were orchestrated by the Debtor) and that the March 2009 transaction breached a purported duty of good faith and fair dealing under the warehouse agreements. UBS also sought pre-judgment interest, calculated at nine percent under New York law, attorneys’ fees, and punitive damages. The 2009 Action and 2010 Action (collectively, the “State Court Action”) were later consolidated.

21. The claims asserted in the State Court Action were bifurcated for purposes of trial. Phase I of the trial commenced on July 9, 2018, and was limited to UBS’s breach of contract claim against the Funds, and certain contractual counterclaims asserted by the Debtor. Phase I of the trial concluded on July 27, 2018. The State Court issued its decision more than a year later, on November 14, 2019, determining that the Funds breached the warehouse agreements on December 5, 2008. The Phase I judgment was entered against the Funds on February 10, 2020, in the principal amount of \$519,374,149 with \$520,583,650.44 in prejudgment interest included for an overall judgment of \$1,039,957,799.44. UBS Claim ¶ 23.

22. The claims to be tried in Phase II of the State Court Action included (i) UBS’s claim against the Debtor for breach of the implied covenant of good faith and fair dealing, (ii) UBS’s fraudulent transfer claims against the Debtor, HFP, and Multi-Strat, (iii) UBS’s claim for declaratory relief against HFP, and (iv) UBS’s general partner liability claim against Strand.⁹ Phase II of the trial was automatically stayed as to the Debtor by its bankruptcy filing.

⁹ UBS’s claims against Credit Strategies and Crusader, as the recipients of \$172,411,785 of the assets transferred in the March 2009 transaction, were settled in June 2015.

II. The Bankruptcy Case

23. The Debtor commenced the Bankruptcy Case in the District of Delaware on October 16, 2019, by filing its voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Bankruptcy Case was transferred to this Court on December 4, 2019. The Official Committee of Unsecured Creditors (“OCUC”) was appointed by the U.S. Trustee on October 29, 2019, before the Bankruptcy Case was transferred to this Court.

24. On May 20, 2020, UBS moved for relief from the automatic stay (the “Stay Relief Motion”), seeking stay relief to prosecute its claims against the Debtor in the State Court. Dkt. No. 644. The Debtor, Redeemer Committee, OCUC, and Acis Capital Management, L.P. and Acis Capital Management GP, LLC all objected to the Stay Relief Motion. Following a hearing on June 15, 2020, the Court denied the Stay Relief Motion and set June 26, 2020 as the deadline for UBS to file its proof of claim against the Debtor. Dkt. No. 765.

25. On August 3, 2020, the Court entered the *Order Directing Mediation*, pursuant to which the Debtor and UBS (among other parties) were directed to mediate their disputes before the Mediators. Dkt. No. 912.

26. On February 22, 2021, the Bankruptcy Court entered the *Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (II) Granting Related Relief*, Dkt. No. 1943, which confirmed the Plan.¹⁰

III. The UBS Claim

27. UBS filed the UBS Claim in the Bankruptcy Case on June 26, 2020. The UBS Claim consists of two substantively identical claims: (i) Claim No. 190 filed by UBS Securities LLC; and (ii) Claim No. 191 filed by UBS AG London Branch. Feinstein Decl. Exhibits 2 and 3. UBS asserted a general unsecured claim against the Debtor for \$1,039,957,799.40, *i.e.*,

¹⁰ The confirmed Plan included certain amendments filed on February 1, 2021. *See Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)*, Docket No. 1875, Exh. B.

the exact amount of UBS's breach of contract judgment against the Funds. The UBS Claim seeks "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" and interest, punitive damages and attorneys' fees. UBS Claim ¶ 26.

28. The Debtor and the Redeemer Committee and the Highland Crusader Funds ("Redeemer/Crusader") each objected to the UBS Claim on August 7, 2020. Dkt. Nos. 928, 933. UBS filed its response to the claim objections on September 25, 2020. Dkt. No. 1105.

IV. The Partial Summary Judgment Motions and UBS's 3018 Motion

29. On October 16, 2020, the Debtor filed a motion for partial summary judgment on the UBS Claim, as did Redeemer/Crusader. Dkt. Nos. 1214, 1215. UBS filed its response on November 6, 2020, and the moving parties submitted their replies on November 16, 2020. Dkt. Nos. 1337, 1402, 1408. The Debtor and Redeemer/Crusader sought to disallow (i) any claim against the Debtor that arose prior to February 24, 2009, including any claim to enforce the Phase I judgment against the Debtor, (ii) any claim to impose alter ego liability on the Debtor, and (iii) any claim seeking recovery from the Debtor pertaining in any way to the transfers of \$172,411,785 of assets made collectively to Credit Strategies and Crusader in March 2009. By Order dated December 9, 2020, the Court granted the motions for partial summary judgment filed by the Debtor and Redeemer/Crusader, and denied UBS's request for leave to file an amended proof of claim. Dkt. No. 1526.

30. On November 6, 2020, UBS filed a motion pursuant to Bankruptcy Rule 3018, seeking the temporary allowance of the UBS Claim for purposes of voting on the Plan. Dkt. No. 1338 (the "3018 Motion"). UBS requested that the Court temporarily allow the UBS Claim in the amount of \$543,620,736.03, which included (i) the \$233,455,147 of assets transferred in March 2009, (ii) approximately \$45,000,000 that UBS asserted was held by HFP after the March 2009 transaction, and (iii) \$265,165,589.03 for nine percent pre-judgment interest from March

2009 to the petition date. Dkt. No. 1342 ¶ 38. With respect to the March 2009 transfers, UBS included the following chart:

Recipient	Market Value of Assets
Credit Strategies	\$20,044,219
Crusader Holding	\$108,961,751
Crusader Offshore	\$43,405,815
Multi-Strat Entities	\$25,782,988
Debtor	\$17,778,566
Citibank, N.A.	\$17,481,808
<u>Total</u>	<u>\$233,455,147</u>

Dkt. No. 1342 ¶ 15. UBS also asserted that the Debtor could be liable for additional amounts purportedly held by CDO Fund, because the Debtor interfered (in breach of its implied covenant of good faith and fair dealing) with CDO Fund's obligation to bear responsibility for 51% of the losses suffered by UBS under the warehouse agreements. *See, e.g.*, 11/20/20 Hrg. Tr. [Dkt. 1482] at 207:21 (asserting that \$23,000,000 was held by CDO Fund as of December 31, 2009).

31. The Debtor and Redeemer/Crusader objected to the 3018 Motion on November 16, 2020. Dkt. Nos. 1404, 1409. The Debtor (joined by Redeemer/Crusader) argued that the UBS Claim should be temporarily allowed in the maximum amount of \$35,742,978.98. The calculation of that amount used the \$233,455,147 of transfers in March 2009 as a starting point, then subtracted the \$172,411,785 transferred to Credit Strategies and Crusader (*i.e.*, the parties that settled with UBS in 2015), leaving a remaining principal amount of \$61,043,362 (or \$119,143,263.26 with 9% prejudgment interest). The Debtor further argued that a 70% discount should be applied to account for the substantial likelihood that UBS would not be able to establish most, if not all, of its claims at trial ($\$119,143,263.26 \times .30 = \$35,742,978.978$). Dkt. No. 1404 at 1.

32. The Debtor, Redeemer/Crusader, and UBS collectively submitted more than 3,000 pages of exhibits in connection with the partial summary judgment motions and 3018 Motion. *See, e.g.*, Dkt. Nos. 1413, 1414, 1418.

33. On November 20, 2020, the Court held a hearing on the partial summary judgment motions and 3018 Motion. During the all-day hearing, the Court heard lengthy arguments by counsel for the Debtor, Redeemer/Crusader, and UBS. The Court received extensive evidence, including deposition clips and excerpts from one of UBS's expert's report relating to, among other things, the terms of the warehouse agreements, the March 2009 transfers and underlying notes, the pre-petition operation of the Debtor's business, and the convoluted history of the State Court Action to date. At the conclusion of the hearing, the Court granted the partial summary judgment motions (as discussed above) and temporarily allowed the UBS Claim for voting purposes in the amount of \$94,761,076. 11/20/20 Hrg. Tr. at 213:25-214:1.¹¹ That amount reflected the following:

- \$8 million for the amount transferred to the Debtor in March 2009. The Court used the adjusted amount included in one of the tables to UBS's expert's report, with no discount applied for litigation risk. 11/20/20 Hrg. Tr. at 215:16-22. UBS continued to dispute whether the original amount (\$17,778,566) or the adjusted amount should be used. *Id.* at 217:4-23.
- Approximately \$23.2 million for the total amount transferred to Multi-Strat in March 2009 (\$25,782,988), reflecting a 90% chance that UBS would prevail on that portion of its claim. 11/20/20 Hrg. Tr. at 214:14-215:15.
- Approximately \$3.5 million for the total amount transferred to Citibank, N.A. in March 2009 (\$17,481,808), reflecting a 20% chance that UBS would prevail on that portion of its claim. 11/20/20 Hrg. Tr. at 215:23-216:3.
- \$30 million for pre-judgment interest on the above three amounts. 11/20/20 Hrg. Tr. at 216:4-7.
- \$10 million relating to the approximately \$68 million that UBS argued was held by HFP and CDO Fund, at minimum, after the March 2009 transfers. 11/20/20 Hrg. Tr. at 216:8-15.
- \$10 million relating to pre-judgment interest on the above amount. 11/20/20 Hrg. Tr. at 216:15-16.

¹¹ An excerpt of the transcript from the November 20, 2020 hearing setting forth the Court's ruling on the 3018 Motion is attached as **Exhibit 4** to the Feinstein Declaration.

- \$10 million to take into account UBS's demand for attorneys' fees. 11/20/20 Hrg. Tr. at 216:17-24.

The Court's order on the 3018 Motion was entered on December 7, 2020. Dkt. No. 1518.

V. Summary of the Salient Terms of the Settlement Agreement

34. In an effort to resolve the long-standing and highly contentious dispute between the Debtor and UBS, the parties and their counsel engaged in extensive negotiations and multiple sessions with the Mediators. *See, e.g.*, Settlement Agreement at 2. Those efforts resulted in the Settlement Agreement, which the parties executed on March 30, 2021.

35. The principal terms of the Settlement Agreement are as follows:¹²

- The parties to the Settlement Agreement are (i) the Debtor, (ii) Multi-Strat, together with its general partner and its direct and indirect wholly-owned subsidiaries, (iii) Strand, and (iv) UBS. Settlement Agreement at 1.
- The UBS Claim will be allowed as (i) a single, general unsecured claim in the amount of \$65,000,000 against the Debtor, which shall be treated as a Class 8 General Unsecured Claim under the Plan, and (ii) a single, subordinated unsecured claim in the amount of \$60,000,000 against the Debtor, which shall be treated as a Class 9 Subordinated General Unsecured Claim under the Plan. *Id.* § 1(a).
- Multi-Strat will pay \$18,500,000 to UBS, to be funded in part with certain Multi-Strat assets previously placed in escrow pursuant to an agreement between Multi-Strat and UBS (among other parties) entered into in May 2020. *Id.* § 1(b).¹³
- UBS will withdraw with prejudice its appeal of this Court's order approving the Debtor's settlement with Redeemer/Crusader [Dkt. No. 1273] if Redeemer/Crusader do not object to this Settlement Agreement. *Id.* § 1(d).
- The Debtor will transfer to UBS any claim it may have against Sentinel or any other party with respect to the Multi-Strat Interest transferred as part of the Transferred Assets. *Id.* § 1(g).

¹² In the event of any inconsistency between this Motion and the Settlement Agreement, the terms of the Settlement Agreement shall control.

¹³ The two other parties to the May 2020 agreement – Highland Credit Opportunities CDO, Ltd. and Highland Credit Opportunities CDO Asset Holdings, L.P. – also are signatories to the Settlement Agreement. Settlement Agreement at 3, 14.

- The parties will exchange broad mutual releases upon the effective date of the Settlement Agreement. *Id.* §§ 2(a), 3(a)-(c).
- If UBS ever controls or has authority over any HCMLP-affiliated defendant(s) in the State Court Action by virtue of the prosecution, enforcement, or collection of the Phase I Judgment, neither UBS nor such defendant(s) will assert or pursue any claims that such defendant(s) has or may have against the Debtor or any other HCMLP Parties (as defined in the Settlement Agreement) (provided that nothing prohibits those actions set forth in Section 3(a)(1)-(6) of the Settlement Agreement), and if UBS receives any distribution from any such defendant(s) that is derived from a claim such defendant(s) has against the Debtor (subject to the exceptions set forth in Section 3(a)) which distribution is directly attributable to any property such defendant(s) receives from the Debtor and separate and distinct from property owned or controlled by CDO Fund, SOHC, or Multi-Strat, then such amount will be credited against amounts due to UBS under Section 1(a) of the Settlement Agreement. *Id.*, § 5.
- The Debtor will use reasonable efforts to assist UBS in, among other things, collecting its judgment against the Funds and assets the Funds may own, including by cooperating with UBS (i) to assign or convey any assets owned or controlled by the Funds and/or HFP and (ii) in its pursuit of the Transferred Assets and claims against the individuals and entities set forth in 1(c)(ii)-(iii) of the Settlement Agreement, subject to a limit on the Debtor's incurrence of no more than \$3 million in expenses in connection therewith and the right to reimbursement of those amounts as set forth in the Settlement Agreement. *Id.* § 1(c).
- The effectiveness of the Settlement Agreement is expressly conditioned upon this Court's approval of the Settlement Agreement. *Id.* §§ 2(c), 6.

RELIEF REQUESTED

36. By this Motion, the Debtor requests that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, granting the Motion, approving the Settlement Agreement, and authorizing the Debtor and its agents to take all actions necessary or desirable to implement the Settlement Agreement without the need for further notice or approval by the Court. The Debtor seeks approval of the Settlement Agreement pursuant to Bankruptcy Rule 9019 and,

to the extent that the Settlement Agreement is viewed as requiring the Debtor to take action outside the ordinary course of business as the investment manager of Multi-Strat, the Debtor also seeks approval of the Settlement Agreement pursuant to Bankruptcy Code section 363(b).

BASIS FOR RELIEF REQUESTED

37. Bankruptcy Rule 9019 provides that “[o]n motion ... and after notice and a hearing, the court may approve a compromise or settlement.” FED. R. BANKR. P. 9019(a). Settlements are favored in the bankruptcy context to “minimize litigation and expedite the administration of a bankruptcy estate.” *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996). The approval of a settlement is within the “sound discretion” of the Court. *In re Jackson Brewing Co.*, 624 F.2d 599, 603 (5th Cir. 1980).

38. Pursuant to Bankruptcy Rule 9019(a), the Court may approve a settlement if it is fair, reasonable, and in the best interests of the estate. *See, e.g., Official Comm. of Unsecured Creditors v. Moeller (In re Age Ref., Inc.)*, 801 F.3d 530, 540 (5th Cir. 2015). A settlement should be approved unless it falls below the lowest point in the range of reasonableness, based on a comparison between the terms of the settlement and the costs and benefits of further litigation. *See, e.g., Jackson Brewing Co.*, 624 F.2d at 602 (court must compare the “terms of the compromise with the likely rewards of litigation”); *Cook v. Waldron*, 2006 U.S. Dist. LEXIS 31411, *10 (S.D. Tex. April 18, 2006) (court should “canvass the issues” to decide if settlement falls “below the lowest point in the range of reasonableness”).

39. In evaluating a proposed settlement, courts consider (i) the “probability of success in the litigation, with due consideration for the uncertainty in fact and law,” (ii) the “complexity and likely duration of the litigation and any attendant expense, inconvenience and delay,” and (iii) “[a]ll other factors bearing on the wisdom of the compromise.” *Official Comm. of Unsecured Creditors v. Cajun Elec. Power Coop. (In re Cajun Elec. Power Coop.)*, 119 F.3d 349, 356 (5th Cir. 1997) (quoting *Jackson Brewing Co.*, 624 F.2d at 602). The “other factors” include

“the best interests of the creditors, ‘with proper deference to their reasonable views,’” as well as “the extent to which the settlement is truly the product of arms-length bargaining, and not of fraud or collusion.” *Id.* (quoting *Conn. Gen. Life Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortg. Corp.)*, 68 F.3d 914, 917-18 (5th Cir. 1995)).

40. A trustee (or debtor-in-possession) also “is permitted to settle lawsuits pursuant to section 363(b)” of the Bankruptcy Code. *Id.* at 354. Section 363(b) provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. 363(b)(1). A settlement involving a transaction outside the ordinary course of business “must be supported by an articulated business justification, good business judgment, or sound business reasons.” *Gluckstadt Holdings, L.L.C. v. VCR I, L.L.C. (In re VCR I, L.L.C.)*, 922 F.3d 323, 327 (5th Cir. 2019) (quoting *Cadle Co. v. Mims (In re Moore)*, 608 F.3d 253, 263 (5th Cir. 2010)).

41. As discussed in detail below, all of the factors to be considered pursuant to Bankruptcy Rule 9019 and Bankruptcy Code section 363(b) weigh **heavily** in favor of approving the Settlement Agreement in this case.

42. **Probability of Success in the Litigation.** While the first factor to be considered does not require a “mini-trial” on the merits, *Cajun Elec. Power Coop.*, 119 F.3d at 356, the Court can evaluate the Settlement Agreement with the benefit of having already considered the extensive briefing, evidence, and argument presented by the Debtor, UBS, and the Redeemer Committee in connection with the partial summary judgment motions and 3018 Motion. As illustrated at the November 20, 2020 hearing and in the parties’ briefs, resolution of the UBS Claim through litigation would involve many complex issues, with resulting uncertainty as to whether the Debtor or UBS ultimately would prevail.

43. For instance, to establish its fraudulent transfer claims relating to the March 2009 transfers, UBS would need to prove that it was a creditor of the entity (HFP) that allegedly

made the purported fraudulent transfers, which would require proof that HFP was the alter ego of one of the Funds that was a party to the contracts with UBS. While the Debtor believes that it would be difficult for UBS to establish its alter ego claim, UBS is equally confident that it will prevail, relying on (among other things) the survival of its alter ego allegations following dispositive motion practice in the State Court Action (and the recently uncovered fraud may help its case).

44. Litigation of the UBS Claim also would require a determination as to whether HFP received fair consideration in exchange for the March 2009 transfers. The Debtor asserts that the transfers were made on account of secured notes issued by HFP. UBS, on the other hand, contends that the debt should be recharacterized as equity, that the notes were unsecured, and that the value of the notes was not equivalent to the amount of the March 2009 transfers. Other hotly contested issues include: (i) whether the Debtor could be held responsible for transfers made by HFP to any entity other than the Debtor, including the transfer made to a completely unrelated third-party (Citibank, N.A.); (ii) whether the transfers were made in good faith, or with actual fraudulent intent; and (iii) whether UBS can recover the attorneys' fees it has incurred – which likely are substantial – from the Debtor, in light of the high standard required for an award of attorneys' fees under New York law. *See, e.g.*, Dkt. No. 1404 ¶¶ 22-23.

45. The Debtor also disputes the merits of UBS's claim for breach of the implied covenant of good faith and fair dealing. The Debtor maintains that UBS cannot use the implied covenant to "rewrite" the warehouse agreements, which were heavily negotiated contracts among sophisticated parties that placed all risk of loss on the Funds, not the Debtor. The Debtor also maintains that UBS will not be able to prove the Debtor breached any purported duty of good faith and fair dealing as to the March 2009 transfers made by HFP or its subsidiaries, given that HFP was not a party to the warehouse agreements and was not a defendant in the State Court Action at the time of the transfers, and the transfers were made after UBS terminated the warehouse agreements.

UBS, of course, has raised its own arguments in response to each of the Debtor's points. Specifically, UBS maintains that its claim does not "rewrite" the warehouse agreements because the Debtor was a party to all three contracts – and in fact was the only Highland party to one of the three contracts – whereby it expressly promised that the Funds would bear all losses on the contracts, thus obligating itself not to interfere with, injure, or frustrate UBS's right to recover such losses from the Funds. UBS also maintains that the Debtor exerted its control over the Funds to move assets out of UBS's reach and into the pockets of other Highland-affiliated entities. And UBS maintains that the Debtor's principal arguments have already been rejected by the New York appellate courts (although the Debtor disputes that contention). Accordingly, UBS is confident that it will prevail on its implied covenant claim. (Moreover, the recent discovery of the Sentinel transactions, including the transfer of the Transferred Assets by CDO Fund, provides additional weight to UBS's claim.)

46. As one final example of the plethora of issues that would need to be resolved absent the Settlement Agreement, the parties dispute whether UBS's implied covenant claim is limited to the allegedly fraudulent transfers made by HFP or its subsidiaries in March 2009. The Debtor has asserted that the March 2009 transfers – with only approximately \$61 million of transfers remaining at issue in light of the Court's ruling on the partial summary judgment motions – are the only basis for UBS's implied covenant claim. UBS, on the other hand, has argued that damages on its implied covenant claim may include, in addition to the remaining \$61 million of March 2009 transfers still at issue, all or some portion of any assets held by HFP, SOHC, and CDO Fund after the March 2009 transfers were made, which until, the Independent Board informed it of the Transferred Assets, UBS believed to be approximately \$45 million at HFP and approximately \$23 million at CDO Fund – but now understands was significantly more. *See, e.g.*, 11/20/20 Hrg. Tr. at 138:10-139:5; 207:19-208:14.

47. These and other issues were the subject of extensive discovery and numerous competing expert opinions in the State Court Action. For the more than ten years that the State Court

Action has been pending, UBS and the Debtor – each represented by sophisticated business people and experienced counsel – have maintained diametrically different views on the merits of UBS’s claims and the Debtor’s defenses. The Settlement Agreement appropriately takes into account the complexity of the issues that would need to be resolved in further litigation, and the resulting uncertainty. Moreover, the settlement amount agreed upon by the parties is consistent with the Court’s evaluation of the UBS Claim in connection with the 3018 Motion. Therefore, the Settlement Agreement satisfies the “probability of success” factor.

48. **Expense, Inconvenience, and Delay.** The Settlement Agreement resolves claims that UBS asserted against the Debtor, Multi-Strat, and Strand more than ten years ago. The convoluted history of the State Court Action itself speaks volumes about the expense, inconvenience, and delay likely to result from further litigation of the UBS Claim. Indeed, the only claims resolved to date – UBS’s breach of contract claim against the Funds and the Debtor’s contractual counterclaims (which were rejected) – required a thirteen-day bench trial in the State Court.

49. Litigation of UBS’s claims against the Debtor, including the resolution of the complex issues outlined above, would require enormous time and effort, and the expenditure of millions of dollars by the Debtor’s estate. Pre-trial preparation and trial is, of course, expensive and time-consuming in any complex case. And here, expert witnesses who prepared their expert reports years ago would need to be re-engaged, and fact witnesses involved in transactions that occurred more than ten years ago would need to be prepared for trial – many of whom are no longer under the Debtor’s control and some of whom are adverse to the Debtor today. Furthermore, any result obtained at trial in all likelihood would be subjected to appellate review. By finally ending the acrimonious, decade-old dispute between the Debtor and UBS without further expense, the Settlement Agreement easily satisfies the “expense, inconvenience, and delay” factor.

50. **Other Factors.** As an initial matter, there can be no doubt that the Settlement Agreement was the product of good faith, arms-length negotiations between the Debtor and UBS.

The parties reached agreement after extensive negotiations and multiple sessions with the Mediators. And, no party could credibly contend that there was collusion between the Debtor and UBS, who have been aggressive adversaries for more than a decade.

51. As to the second “other factor” identified by the Fifth Circuit, approval of the Settlement Agreement is in the best interests of the Debtor’s creditors. The UBS Claim was filed as a \$1 billion claim in June 2020, and already has been the subject of vigorously contested litigation in this Court. Pursuant to the Settlement Agreement, the UBS Claim will be resolved, without further litigation expense to the Debtor’s estate, with (i) allowance of a single, general unsecured claim in the amount of \$65 million against the Debtor, (ii) allowance of a single, subordinated unsecured claim in the amount of \$60 million against the Debtor, and (iii) the \$18.5 million payment by Multi-Strat. Resolution of the UBS Claim on these terms benefits the many other Class 8 unsecured creditors who share ratably with UBS and would be at risk of substantial dilution if the UBS Claim were allowed at \$1 billion, as UBS has asserted, or anything approaching that amount.

52. **Sound Business Reasons and Justifications.** As outlined above, there are sound business reasons and justifications for entering into the Settlement Agreement, particularly as it pertains to Multi-Strat. UBS has alleged that Multi-Strat was the direct recipient of \$25,782,988 of the amount allegedly fraudulently transferred by HFP in March 2009. While the Debtor believes there are numerous meritorious defenses to that claim, litigation of UBS’s claim against Multi-Strat would involve the same uncertainty and expense as litigation of UBS’s fraudulent transfer claim against the Debtor, including the impact of the fraud on certain Multi-Strat transactions. Furthermore, after hearing extensive evidence and argument relating to, among other things, the fraudulent transfer claims, the Court determined there was a 90% chance that UBS would prevail on the Multi-Strat portion of its claim (*i.e.*, a value of approximately \$43 million, including pre-judgment interest, and potentially attorney fees). *See* 11/20/20 Hrg. Tr. at 214:10-215:15. The settlement payment to be made by Multi-Strat (\$18,500,000) takes into account the strengths and

weaknesses of both parties' positions, as well as the benefit of resolving the litigation without further expense. Therefore, the Debtor respectfully requests that the Settlement Agreement be approved pursuant to both Bankruptcy Rule 9019 and section 363(b) of the Bankruptcy Code (to the extent necessary).

53. Finally, the Debtor is also authorized, as investment manager, to cause Multi-Strat to settle the claims UBS has asserted against Multi-Strat in the State Court Action without seeking leave under 11 U.S.C. § 363(b). *First*, section 363(b) applies to “property of the estate.” 11 U.S.C. § 363(b)(1). However, the assets of a debtor’s non-debtor subsidiaries are *not* property of a debtor’s estate. *See, e.g., In re Guyana Dev. Corp.*, 168 B.R. 892, 905 (Bankr. S.D. Tex. 1994) (“As a general rule, property of the estate includes the debtor’s stock in a subsidiary but not the assets of the subsidiary.”). Here, Multi-Strat is not wholly owned by the Debtor and has meaningful third party investors. Thus, the payment to be made by Multi-Strat pursuant to the Settlement Agreement will not involve property of the Debtor’s estate or implicate 11 U.S.C. § 363(b). Instead, it will involve the transfer of Multi-Strat’s property in settlement of UBS’s claim against Multi-Strat. *Second*, even if 11 U.S.C. § 363 is relevant, the Debtor is authorized to operate its business in the ordinary course without notice or hearing pursuant to 11 U.S.C. § 363(c)(1). As the investment manager of Multi-Strat, the Debtor can, in the ordinary course of business, cause Multi-Strat to settle the claims UBS has asserted against Multi-Strat in the State Court Action. *Finally*, even if the Settlement Agreement is viewed as requiring the Debtor to take action outside the ordinary course of business as the investment manager of Multi-Strat, the Settlement Agreement should be approved pursuant to section 363(b) of the Bankruptcy Code for the reasons set forth above.

NO PRIOR REQUEST

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

NOTICE

55. Notice of this Motion shall be given to (i) counsel for UBS, (ii) counsel to the OCUC, (iii) the Debtor's principal secured parties, (iv) the Office of the United States Trustee, and (v) parties requesting notice pursuant to Bankruptcy Rule 2002. The Debtor submits that, in light of the nature of the relief requested herein, 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**, granting the Motion and the relief requested herein, and granting the Debtor such other and further relief as the Court deems just and proper.

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Dated: April 15, 2021.

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Exhibit A
Proposed Order

**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 APPROVING DEBTOR’S SETTLEMENT WITH
UBS SECURITIES LLC AND UBS AG LONDON BRANCH
AND AUTHORIZING ACTIONS CONSISTENT THEREWITH**

This matter having come before the Court on the *Debtor’s Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith* (the “Motion”)² filed by Highland Capital Management, L.P., the debtor and debtor-in-possession (the “Debtor”) in the above-captioned chapter 11 case; and the

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.

² Capitalized terms not otherwise defined herein have the meanings ascribed to such terms in the Motion.

Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue in this District being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having considered the Motion, the materials submitted in support of the Motion, all responses to the Motion, and the arguments presented by counsel at the hearing on the Motion; and the 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 is supported by sound business reasons and justifications; and the Court having determined that the legal and factual bases set forth in the Motion establish sufficient cause for the relief granted herein; and adequate notice of the Motion having been given; and after due deliberation and good cause appearing therefor, it is hereby **ORDERED** that:

1. The Motion is **GRANTED**.
2. The Settlement Agreement attached as **Exhibit 1** to the Feinstein Declaration is approved in all respects pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure and section 363(b) of the Bankruptcy Code.
3. The Debtor and its agents are authorized to take any and all actions necessary or desirable to implement the Settlement Agreement without further notice or further Court approval.
4. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

EXHIBIT
2

Exhibit 1
Settlement Agreement

EXECUTION VERSION

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is entered into as of March 30, 2021, by and among (i) Highland Capital Management, L.P. (“HCMLP” or the “Debtor”), (ii) Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat,” and together with its general partner and its direct and indirect wholly-owned subsidiaries, the “MSCF Parties”), (iii) Strand Advisors, Inc. (“Strand”), and (iv) UBS Securities LLC and UBS AG London Branch (collectively, “UBS”).

Each of HCMLP, the MSCF Parties, Strand, and UBS are sometimes referred to herein collectively as the “Parties” and individually as a “Party.”

R E C I T A L S

WHEREAS, in 2007, UBS entered into certain contracts with HCMLP and two funds managed by HCMLP—Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”) and Highland Special Opportunities Holding Company (“SOHC,” and together with CDO Fund, the “Funds”) related to a securitization transaction (the “Knox Agreement”);

WHEREAS, in 2008, the parties to the Knox Agreement restructured the Knox Agreement;

WHEREAS, UBS terminated the Knox Agreement and, on February 24, 2009, UBS filed a complaint in the Supreme Court of the State of New York, County of New York (the “State Court”) against HCMLP and the Funds seeking to recover damages related to the Knox Agreement, in an action captioned *UBS Securities LLC, et al. v. Highland Capital Management, L.P., et al.*, Index No. 650097/2009 (N.Y. Sup. Ct.) (the “2009 Action”);

WHEREAS, UBS’s lone claim against HCMLP in the 2009 Action for indemnification was dismissed in early 2010, and thereafter UBS amended its complaint in the 2009 Action to add five new defendants, Highland Financial Partners, L.P. (“HFP”), Highland Credit Strategies Master Funds, L.P. (“Credit-Strat”), Highland Crusader Offshore Partners, L.P. (“Crusader”), Multi-Strat, and Strand, and to add new claims for fraudulent inducement, fraudulent conveyance, tortious interference with contract, alter ego, and general partner liability;

WHEREAS, UBS filed a new, separate action against HCMLP on June 28, 2010, for, *inter alia*, fraudulent conveyance and breach of the implied covenant of good faith and fair dealing, captioned *UBS Securities LLC, et al. v. Highland Capital Management, L.P.*, Index No. 650752/2010 (N.Y. Sup. Ct.) (the “2010 Action”);

WHEREAS, in November 2010, the State Court consolidated the 2009 Action and the 2010 Action (hereafter referred to as the “State Court Action”), and on May 11, 2011, UBS filed a Second Amended Complaint in the 2009 Action;

WHEREAS, in 2015, UBS entered into settlement agreements with Crusader and Credit-Strat, and thereafter UBS filed notices with the State Court in the State Court Action dismissing its claims against Crusader and Credit-Strat;

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WHEREAS, the State Court bifurcated claims asserted in the State Court Action for purposes of trial, with the Phase I bench trial deciding UBS’s breach of contract claims against the Funds and HCMLP’s counterclaims against UBS;

WHEREAS, on August 7, 2017, the Funds, along with Highland CDO Opportunity Fund, Ltd., Highland CDO Holding Company, Highland Financial Corp., and HFP, purportedly sold assets with a purported collective fair market value of \$105,647,679 (the “Transferred Assets”) and purported face value of over \$300,000,000 to Sentinel Reinsurance, Ltd. (“Sentinel”) pursuant to a purported asset purchase agreement (the “Purchase Agreement”);

WHEREAS, Sentinel treated the Transferred Assets as payment for a \$25,000,000 premium on a document entitled “Legal Liability Insurance Policy” (the “Insurance Policy”);

WHEREAS, the Insurance Policy purports to provide coverage to the Funds for up to \$100,000,000 for any legal liability resulting from the State Court Action (the “Insurance Proceeds”);

WHEREAS, one of the Transferred Assets CDO Fund transferred to Sentinel was CDO Fund’s limited partnership interests in Multi-Strat (the “CDOF Interests”);

WHEREAS, Sentinel had also received from HCMLP limited partnership interests in Multi-Strat for certain cash consideration (together with the CDOF Interests, the “MSCF Interests”);

WHEREAS, the existence of the Purchase Agreement and Insurance Policy were unknown to Strand’s independent directors and the Debtor’s bankruptcy advisors prior to late January 2021;

WHEREAS, in early February 2021, the Debtor disclosed the existence of the Purchase Agreement and Insurance Policy to UBS;

WHEREAS, prior to such disclosure, the Purchase Agreement and Insurance Policy were unknown to UBS;

WHEREAS, on November 14, 2019, following the Phase I trial, the State Court issued its decision determining that the Funds breached the Knox Agreement on December 5, 2008 and dismissing HCMLP’s counterclaims;

WHEREAS, Sentinel purportedly redeemed the MSCF Interests in November 2019 and the redeemed MSCF Interests are currently valued at approximately \$32,823,423.50 (the “Sentinel Redemption”);

WHEREAS, on February 10, 2020, the State Court entered a Phase I trial judgment against the Funds in the amount of \$1,039,957,799.44 as of January 22, 2020 (the “Phase I Judgment”);

WHEREAS, Phase II of the trial of the State Court Action, includes, *inter alia*, UBS’s claim for breach of implied covenant of good faith and fair dealing against HCMLP, UBS’s

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fraudulent transfer claims against HCMLP, HFP, and Multi-Strat, and UBS’s general partner claim against Strand;

WHEREAS, on October 16, 2019, HCMLP filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Case”). The Bankruptcy Case was transferred to the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) on December 4, 2019;

WHEREAS, Phase II of the trial of the State Court Action was automatically stayed as to HCMLP by HCMLP’s bankruptcy filing;

WHEREAS, on May 11, 2020, UBS, Multi-Strat, Highland Credit Opportunities CDO, Ltd., and Highland Credit Opportunities CDO Asset Holdings, L.P. (collectively, the “May Settlement Parties”), entered into a Settlement Agreement (the “May Settlement”) pursuant to which the May Settlement Parties agreed to the allocation of the proceeds of certain sales of assets held by Multi-Strat, including escrowing a portion of such funds, and restrictions on Multi-Strat’s actions;

WHEREAS, on June 26, 2020, UBS timely filed two substantively identical claims in the Bankruptcy Case: (i) Claim No. 190 filed by UBS Securities LLC; and (ii) Claim No. 191 filed by UBS AG London Branch (hereinafter collectively referred to as the “UBS Claim”). The UBS Claim asserts a general unsecured claim against HCMLP for \$1,039,957,799.40;

WHEREAS, on August 3, 2020, the Bankruptcy Court entered an *Order Directing Mediation* [Docket No. 912] pursuant to which HCMLP, UBS, and several other parties were directed to mediate their Bankruptcy Case disputes before two experienced third-party mediators, Retired Judge Allan Gropper and Sylvia Mayer (together, the “Mediators”). HCMLP and UBS formally met with the Mediators together and separately on numerous occasions, including on August 27, September 2, 3, and 4, and December 17, 2020, and had numerous other informal discussions outside of the presence of the Mediators, in an attempt to resolve the UBS Claim;

WHEREAS, on August 7, 2020, HCMLP filed an objection to the UBS Claim [Docket No. 928]. Also on August 7, 2020, the Redeemer Committee of the Highland Crusader Fund, and Crusader, Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland Crusader Fund II, Ltd. (collectively, the “Redeemer Committee”), objected to the UBS Claim [Docket No. 933]. On September 25, 2020, UBS filed its response to these objections [Docket No. 1105];

WHEREAS, on October 16, 2020, HCMLP and the Redeemer Committee each moved for partial summary judgment on the UBS Claim [Docket Nos. 1180 and 1183, respectively], and on November 6, 2020, UBS opposed these motions [Docket No. 1337];

WHEREAS, by Order dated December 9, 2020, the Bankruptcy Court granted, as set forth therein, the motions for partial summary judgment filed by HCMLP and the Redeemer Committee and denied UBS’s request for leave to file an amended proof of claim [Docket No. 1526];

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WHEREAS, on November 6, 2020, UBS filed *UBS’s Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018* [Docket No. 1338] (the “3018 Motion”), and on November 16, 2020, HCMLP and the Redeemer Committee each opposed the 3018 Motion [Docket Nos. 1404 and 1409, respectively];

WHEREAS, by Order dated December 8, 2020, the Bankruptcy Court granted the 3018 Motion and allowed the UBS Claim, on a temporary basis and for voting purposes only, in the amount of \$94,761,076 [Docket No. 1518];

WHEREAS, on January 22, 2021, the Debtor filed the *Fifth Amended Plan of Reorganization for Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, and as may be further amended, supplemented, or otherwise modified, the “Plan”);

WHEREAS, on March 29, 2021, the Debtor caused CDO Fund to make a claim on the Insurance Policy to collect the Insurance Proceeds pursuant to the Phase I Judgment;

WHEREAS, on March 29, 2021, UBS filed an adversary proceeding seeking injunctive relief and a motion for a temporary restraining order and preliminary injunction to, among other things, enjoin the Debtor from allowing Multi-Strat to distribute the Sentinel Redemption to Sentinel or any transferee of Sentinel (the “Multi-Strat Proceeding”), which relief the Debtor, in its capacity as Multi-Strat’s investment manager and general partner, does not oppose;

WHEREAS, the Parties wish to enter into this Agreement to settle all claims and disputes between and among them, to the extent and on the terms and conditions set forth herein, and to exchange the mutual releases set forth herein, without any admission of fault, liability, or wrongdoing on the part of any Party; and

WHEREAS, this Agreement will be presented to the Bankruptcy Court for approval pursuant to Federal Rule of Bankruptcy Procedure 9019 (“Rule 9019”) and section 363 of the Bankruptcy Code;

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:

A G R E E M E N T

1. Settlement of Claims. In full and complete satisfaction of the UBS Released Claims (as defined below):

(a) The UBS Claim will be allowed as (i) a single, general unsecured claim in the amount of \$65,000,000 against HCMLP, which shall be treated as a Class 8 General Unsecured Claim under the Plan;¹ and (ii) a single, subordinated unsecured claim in the amount of \$60,000,000 against HCMLP, which shall be treated as a Class 9 Subordinated General Unsecured Claim under the Plan.

¹ Capitalized terms used but not defined herein shall have the meanings attributed to them in the Plan.

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(b) Multi-Strat will pay UBS the sum of \$18,500,000 (the “Multi-Strat Payment”) as follows: (i) within two (2) business days after the Order Date, the May Settlement Parties will submit a Joint Release Instruction (as defined in the May Settlement) for the release of the amounts held in the Escrow Account (as defined in the May Settlement) to be paid to UBS in partial satisfaction of the Multi-Strat Payment on the date that is ten (10) business days following the Order Date; and (ii) Multi-Strat will pay UBS the remainder of the Multi-Strat Payment in immediately available funds on the date that is ten (10) business days following the Order Date, provided that, for the avoidance of doubt, the amounts held in the Escrow Account will not be paid to UBS until and unless the remainder of the Multi-Strat Payment is made.

(c) Subject to applicable law, HCMLP will use reasonable efforts to (i) cause CDO Fund to pay the Insurance Proceeds in full to UBS as soon as practicable, but no later than within 5 business days of CDO Fund actually receiving the Insurance Proceeds from or on behalf of Sentinel; (ii) if Sentinel refuses to pay the Insurance Proceeds, take legal action reasonably designed to recover the Insurance Proceeds or the MSCF Interests or to return the Transferred Assets to the Funds to satisfy the Phase I Judgment and in addition shall provide reasonable assistance to UBS in connection with any legal action UBS takes to recover the Insurance Proceeds or to return the Transferred Assets to the Funds to satisfy the Phase I Judgment or obtain rights to the MSCF interests, including but not limited to the redemption payments in connection with the MSCF Interests; (iii) cooperate with UBS and participate (as applicable) in the investigation or prosecution of claims or requests for injunctive relief against the Funds, Multi-Strat, Sentinel, James Dondero, Isaac Leventon, Scott Ellington, Andrew Dean, Christopher Walter, Jean Paul Sevilla, Matthew DiOrio, Katie Irving, and/or any other current or former employee or director of the Funds or Sentinel and/or any other former employee or former director of any of the HCMLP Parties that is believed to be involved with the Purchase Agreement, Insurance Policy, Transferred Assets, the transfer of the MSCF Interests, or any potentially fraudulent transfer of assets from the Funds to Sentinel, excluding the individuals listed on the schedule provided to UBS on March 25, 2021 (the “HCMLP Excluded Employees”); (iv) as soon as reasonably practicable, provide UBS with all business and trustee contacts at the Funds, HFP, Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd, Eastland CLO Ltd, Grayson CLO Ltd, Valhalla CLO Ltd, and Governance Re Ltd, if any, that are actually known by the Debtor after reasonable inquiry; (v) as soon as reasonably practicable, provide UBS with a copy of the governing documents, prospectuses, and indenture agreements for the Funds, HFP, Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd, Eastland CLO Ltd, Grayson CLO Ltd, Valhalla CLO Ltd, and Governance Re Ltd, as applicable, that are in the Debtor’s actual possession, custody, or control, (vi) as soon as reasonably practicable, provide, to the extent possible, any CUSIP numbers of the securities of the Funds, HFP, Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd, Eastland CLO Ltd, Grayson CLO Ltd, Valhalla CLO Ltd, and Governance Re Ltd., as applicable, including information regarding the location and amount of any cash related to those entities’ holdings, in each case only to the extent actually known by the Debtor after reasonable inquiry; (vii) cooperate with UBS to assign or convey any such assets described in Section 1(c)(vi) or any other assets owned or controlled by the Funds and/or HFP, including for avoidance of doubt any additional assets currently unknown to the Debtor that the Debtor discovers in the future after the Agreement Effective Date; (viii) respond as promptly as reasonably possible to requests by UBS for access to relevant documents and approve as promptly as reasonably possible requests for access to relevant documents from third parties as needed with respect to the Transferred Assets, the Purchase Agreement, the Insurance Policy, the

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MSCF Interests and any other assets currently or formerly held by the Funds or HFP, including without limitation the requests listed in **Appendix A** (provided, however, that the provision of any such documents or access will be subject to the common interest privilege and will not constitute a waiver of any attorney-client or other privilege in favor of HCMLP) that are in the Debtor's actual possession, custody, or control; (ix) preserve all documents in HCMLP's possession, custody, or control regarding or relating to the Purchase Agreement, the Insurance Policy, the MSCF Interests, or any transfer of assets from the Funds to Sentinel, including but not limited to the documents requested in Appendix A, from 2016 to present, and issue a litigation hold to all individuals deemed reasonably necessary regarding the same; and (x) otherwise use reasonable efforts to assist UBS to collect its Phase I Judgment against the Funds and HFP and assets the Funds and/or HFP may own, or have a claim to under applicable law ahead of all other creditors of the Funds and HFP; provided, however, that, from and after the date hereof, HCMLP shall not be required to incur any out-of-pocket fees or expenses, including, but not limited to, those fees and expenses for outside consultants and professionals (the "Reimbursable Expenses"), in connection with any provision of this Section 1(c) in excess of \$3,000,000 (the "Expense Cap"), and provided further that, for every dollar UBS recovers from the Funds (other than the assets related to Greenbriar CLO Ltd. or Greenbriar CLO Corp.), Sentinel, Multi-Strat (other than the amounts set forth in Section 1(b) hereof), or any other person or entity described in Section 1(c)(iii) in connection with any claims UBS has that arise out of or relate to the Phase I Judgment, the Purchase Agreement, the Insurance Policy, the Transferred Assets, the MSCF Interests, or the Insurance Proceeds (the "UBS Recovery"), UBS will reimburse HCMLP ten percent of the UBS Recovery for the Reimbursable Expenses incurred by HCMLP, subject to: (1) the occurrence of the Agreement Effective Date and (2) UBS's receipt and review of invoices and time records (which may be redacted as reasonably necessary) for outside consultants and professionals in connection with such efforts described in this Section 1(c), up to but not exceeding the Expense Cap after any disputes regarding the Reimbursable Expenses have been resolved pursuant to procedures to be agreed upon, or absent an agreement, in a manner directed by the Bankruptcy Court; and provided further that in any proceeding over the reasonableness of the Reimbursable Expenses, the losing party shall be obligated to pay the reasonable fees and expenses of the prevailing party; and provided further that any litigation in which HCMLP is a co-plaintiff with UBS or a plaintiff pursuing claims on behalf of or for UBS's benefit pursuant to this Section 1(c) shall be conducted in consultation with UBS, including but not limited to the selection of necessary outside consultants and professionals to assist in such litigation; and provided further that UBS shall have the right to approve HCMLP's selection of outside consultants and professionals to assist in any litigation in which HCMLP is a co-plaintiff with UBS or a plaintiff pursuing claims on behalf of or for UBS's benefit pursuant to this Section 1(c).

(d) Redeemer Appeal.

(i) On the Agreement Effective Date, provided that neither the Redeemer Committee nor any entities acting on its behalf or with any assistance from or coordination with the Redeemer Committee have objected to this Agreement or the 9019 Motion (as defined below), UBS shall withdraw with prejudice its 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* [Docket No. 1273] (the "Redeemer Appeal"); and

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(ii) The Parties have stipulated to extend the deadline for the filing of any briefs in the Redeemer Appeal to June 30, 2021 and will agree to such further extensions as necessary to facilitate this Settlement Agreement.

(e) As of the Agreement Effective Date, the restrictions and obligations set forth in the May Settlement, other than those in Section 7 thereof, shall be extinguished in their entirety and be of no further force or effect.

(f) On the Agreement Effective Date, the Debtor shall instruct the claims agent in the Bankruptcy Case to adjust the claims register in accordance with this Agreement.

(g) On the Agreement Effective Date, any claim the Debtor may have against Sentinel or any other party, and any recovery related thereto, with respect to the MSCF Interests shall be automatically transferred to UBS, without any further action required by the Debtor. For the avoidance of doubt, the Debtor shall retain any and all other claims it may have against Sentinel or any other party, and the recovery related thereto, unrelated to the MSCF Interests.

2. Definitions.

(a) “Agreement Effective Date” shall mean the date the full amount of the Multi-Strat Payment defined in Section 1(b) above, including without limitation the amounts held in the Escrow Account (as defined in the May Settlement), is actually paid to UBS.

(b) “HCMLP Parties” shall mean (a) HCMLP, in its individual capacity; (b) HCMLP, as manager of Multi-Strat; and (c) Strand.

(c) “Order Date” shall mean the date of an order entered by the Bankruptcy Court approving this Agreement pursuant to a motion filed under Rule 9019 and section 363 of the Bankruptcy Code.

(d) “UBS Parties” shall mean UBS Securities LLC and UBS AG London Branch.

3. Releases.

(a) **UBS Releases.** Upon the occurrence of the Agreement Effective Date, and to the maximum extent permitted by law, each of the UBS Parties hereby forever, finally, fully, unconditionally, irrevocably, and completely releases, relieves, acquits, remises, exonerates, forever discharges, and covenants never to sue (A) the HCMLP Parties and each of their current and former advisors, attorneys, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (each in their capacities as such), except as expressly set forth below, and (B) the MSCF Parties and each of their current and former advisors, attorneys, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (each in their capacities as such), except as expressly set forth below, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorneys’ fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known

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or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, or statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those that have been or could have been alleged or asserted in the State Court Action or the Bankruptcy Case (collectively, the “UBS Released Claims”), provided, however, that notwithstanding anything to the contrary herein, such releases shall not apply to (1) the obligations of the HCMLP Parties and MSCF Parties under this Agreement, including without limitation the allowance of or distributions on account of the UBS Claim or the settlement terms described in Sections 1(a)-(g) above; (2) the Funds or HFP, including for any liability with respect to the prosecution, enforcement, collection, or defense of the Phase I Judgment, Purchase Agreement, and/or Insurance Policy, or such prosecution, enforcement, collection, or defense of the Phase I Judgment, Purchase Agreement, and/or Insurance Policy by UBS; (3) James Dondero or Mark Okada, or any entities, including without limitation Hunter Mountain Investment Trust, Dugaboy Investment Trust, and NexBank, SSB, owned or controlled by either of them, other than the HCMLP Parties and MSCF Parties (but for the avoidance of doubt, such releases of the HCMLP Parties and MSCF Parties shall be solely with respect to such entities and shall not extend in any way to James Dondero or Mark Okada in their individual capacity or in any other capacity, including but not limited to as an investor, officer, trustee, or director in the HCMLP Parties or MSCF Parties); (4) Sentinel or its subsidiaries, parents, affiliates, successors, designees, assigns, employees, or directors, including James Dondero, Isaac Leventon, Scott Ellington, Andrew Dean, Christopher Walter, Jean Paul Sevilla, Matthew DiOrio, Katie Irving, and/or any other current or former employee or director of the Funds or Sentinel and/or any other former employee or former director of any of the HCMLP Parties that is believed to be involved with the Purchase Agreement, Insurance Policy, MSCF Interests, or Transferred Assets, including for any liability with respect to the prosecution, enforcement, collection, or defense of the Phase I Judgment, Purchase Agreement, the MSCF Interests, any potentially fraudulent transfer of assets from the Funds to Sentinel and/or Insurance Policy, excluding the HCMLP Excluded Employees; (5) the economic rights or interests of UBS in its capacity as an investor, directly or indirectly (including in its capacity as an investment manager and/or investment advisor), in any HCMLP-affiliated entity, including without limitation in the Redeemer Committee and Credit Strat, and/or in such entities’ past, present or future subsidiaries and feeders funds (the “UBS Unrelated Investments”); and (6) any actions taken by UBS against any person or entity, including any HCMLP Party or MSCF Party, to enjoin a distribution on the Sentinel Redemption or the transfer of any assets currently held by or within the control of CDO Fund to Sentinel or a subsequent transferee or to seek to compel any action that only such person or entity has standing to pursue or authorize in order to permit UBS to recover the Insurance Proceeds, Transferred Assets, the Phase I Judgment or any recovery against HFP; provided, however, that, from and after the date hereof, any out-of-pocket fees or expenses incurred by HCMLP in connection with this Section 3(a)(6) will be considered Reimbursable Expenses and shall be subject to, and applied against, the Expense Cap as if they were incurred by HCMLP pursuant to Section 1(c) subject to the occurrence of the Agreement Effective Date and after any disputes regarding such Reimbursable Expenses have been resolved in the manner described in Section 1(c).

(b) **HCMLP Release.** Upon the occurrence of the Agreement Effective Date, and to the maximum extent permitted by law, each of the HCMLP Parties hereby forever, finally, fully, unconditionally, irrevocably, and completely releases, relieves, acquits, remises, exonerates, forever discharges, and covenants never to sue any of the UBS Parties and each of

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their current and former advisors, attorneys, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (each in their capacities as such), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorneys' 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, or statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those that have been or could have been alleged or asserted in the State Court Action or the Bankruptcy Case (collectively, the "HCMLP Released Claims"), provided, however, that notwithstanding anything to the contrary herein, such releases shall not apply to the obligations of the UBS Parties under this Agreement or Section 7 of the May Settlement; and (b) the obligations of the UBS Parties in connection with the UBS Unrelated Investments.

(c) **Multi-Strat Release.** Upon the occurrence of the Agreement Effective Date, and to the maximum extent permitted by law, each of the MSCF Parties hereby forever, finally, fully, unconditionally, irrevocably, and completely releases, relieves, acquits, remises, exonerates, forever discharges, and covenants never to sue any of the UBS Parties and each of their current and former advisors, attorneys, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (each in their capacities as such), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorneys' 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, or statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those that have been or could have been alleged or asserted in the State Court Action or the Bankruptcy Case (collectively, the "Multi-Strat Released Claims"), provided, however, that notwithstanding anything to the contrary herein, such releases shall not apply to the obligations of the UBS Parties under this Agreement or Section 7 of the May Settlement.

4. No Third Party Beneficiaries. Except for the parties released by this Agreement, no other person or entity shall be deemed a third-party beneficiary of this Agreement.

5. UBS Covenant Not to Sue. Subject to the occurrence of the Agreement Effective date, if UBS ever controls any HCMLP-affiliated defendant in the State Court Action by virtue of the prosecution, enforcement, or collection of the Phase I Judgment (collectively, the "Controlled State Court Defendants"), UBS covenants on behalf of itself and the Controlled State Court Defendants, if any, that neither UBS nor the Controlled State Court Defendants will assert or pursue any claims that any Controlled State Court Defendant has or may have against any of the HCMLP Parties; provided, however, that nothing shall prohibit UBS or a Controlled State Court Defendant from taking any of the actions set forth in Section 3(a)(1)-(6); provided further, however, if and to the extent UBS receives any distribution from any Controlled State Court Defendant that is derived from a claim by a Controlled State Court Defendant against the Debtor, subject to the exceptions set forth in Section 3(a), which distribution is directly

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attributable to any property the Controlled State Court Defendant receives from the Debtor and separate and distinct from property owned or controlled by CDO Fund, SOHC, or Multi-Strat, then such recovery shall be credited against all amounts due from the Debtor's estate on account of the UBS Claim allowed pursuant to Section 1(a) of this Agreement, or if such claim has been paid in full, shall be promptly turned over to the Debtor or its successors or assigns.

6. Agreement Subject to Bankruptcy Court Approval.

(a) The force and effect of this Agreement and the Parties' obligations hereunder are conditioned in all respects on the approval of this Agreement and the releases herein by the Bankruptcy Court. The Parties agree to use reasonable efforts to have this Agreement expeditiously approved by the Bankruptcy Court by cooperating in the preparation and prosecution of a mutually agreeable motion and proposed order (the "9019 Motion") to be filed by the Debtor no later than five business days after execution of this Agreement by all Parties unless an extension is agreed to by both parties.

7. Representations and Warranties.

(a) Each UBS Party represents and warrants that (i) it has full authority to enter into this Agreement and to release the UBS Released Claims and has not sold, transferred, or assigned any UBS Released Claim to any other person or entity, and (ii) no person or entity other than such UBS Party has been, is, or will be authorized to bring, pursue, or enforce any UBS Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) such UBS Party.

(b) Each HCMLP Party represents and warrants that (i) it has full authority to enter into this Agreement and to release the HCMLP Released Claims and has not sold, transferred, or assigned any HCMLP Released Claim to any other person or entity, and (ii) no person or entity other than such HCMLP Party has been, is, or will be authorized to bring, pursue, or enforce any HCMLP Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) such HCMLP Party.

(c) Each MSCF Party represents and warrants that (i) it has full authority to enter into this Agreement and to release the Multi-Strat Released Claims and has not sold, transferred, or assigned any Multi-Strat Released Claim to any other person or entity, and (ii) no person or entity other than such MSCF Party has been, is, or will be authorized to bring, pursue, or enforce any Multi-Strat Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) such MSCF Party.

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8. No Admission of Liability. The Parties acknowledge that there is a bona fide dispute with respect to the UBS Claim. Nothing in this Agreement shall be construed, expressly or by implication, as an admission of liability, fault, or wrongdoing by HCMLP, the MSCF Parties, Strand, UBS, 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 MSCF Parties, Strand, UBS, or any other person.

9. 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.

10. Notice. Each notice and other communication hereunder shall be in writing and will, unless otherwise subsequently directed in writing, be delivered by email and overnight delivery, as set forth below, and will be deemed to have been given on the date following such mailing.

HCMLP Parties or the MSCF Parties

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: General Counsel
Telephone No.: 972-628-4100
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
E-mail: jpomerantz@pszjlaw.com

UBS

UBS Securities LLC
UBS AG London Branch
Attention: Elizabeth Kozlowski, Executive Director and Counsel
1285 Avenue of the Americas
New York, NY 10019
Telephone No.: 212-713-9007
E-mail: elizabeth.kozlowski@ubs.com

UBS Securities LLC
UBS AG London Branch
Attention: John Lantz, Executive Director
1285 Avenue of the Americas
New York, NY 10019

EXECUTION VERSION

Telephone No.: 212-713-1371
E-mail: john.lantz@ubs.com

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
Attention: Andrew Clubok
Sarah Tomkowiak
555 Eleventh Street, NW, Suite 1000
Washington, D.C. 20004-1304
Telephone No.: 202-637-3323
Email: andrew.clubok@lw.com
sarah.tomkowiak@lw.com

11. 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.

12. 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 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.

13. No Party Deemed Drafter. The Parties acknowledge that the terms of this Agreement are contractual and are the result of arm's-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.

14. Future Cooperation. The Parties agree to cooperate and execute such further documentation as is reasonably necessary to effectuate the intent of this Agreement.

15. 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.

EXECUTION VERSION

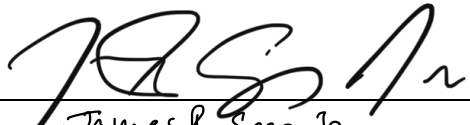
Photographic, electronic, and facsimile copies of signed counterparts may be used in lieu of the originals of this Agreement for any purpose.

16. 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 New York 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 Bankruptcy Case and thereafter to the exclusive jurisdiction of the state and federal courts located in the Borough of Manhattan, New York, 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).

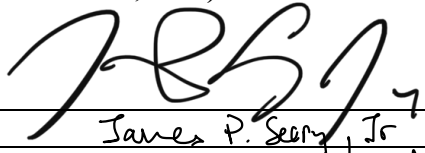
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IT IS HEREBY AGREED.

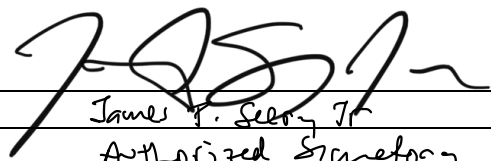
HIGHLAND CAPITAL MANAGEMENT, L.P.

By: 
Name: James P. Seery Jr.
Its: Authorized Signatory

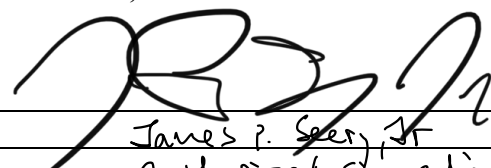
HIGHLAND MULTI STRATEGY CREDIT FUND, L.P. (f/k/a Highland Credit Opportunities CDO, L.P.)

By: 
Name: James P. Seery Jr.
Its: Authorized Signatory

HIGHLAND CREDIT OPPORTUNITIES CDO, Ltd.

By: 
Name: James P. Seery Jr.
Its: Authorized Signatory

HIGHLAND CREDIT OPPORTUNITIES CDO ASSET HOLDINGS, L.P.

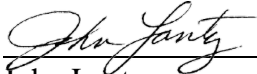
By: 
Name: James P. Seery Jr.
Its: Authorized Signatory


STRAND ADVISORS, INC.

By: 
Name: James P. Seery Jr.
Its: Authorized Signatory

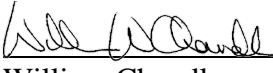
EXECUTION VERSION


UBS SECURITIES LLC

By: 
Name: John Lantz
Its: Authorized Signatory

By: 
Name: Elizabeth Kozlowski
Its: Authorized Signatory

UBS AG LONDON BRANCH

By: 
Name: William Chandler
Its: Authorized Signatory

By: 
Name: Elizabeth Kozlowski
Its: Authorized Signatory

APPENDIX A

- The search parameters (custodians, date ranges, search terms) used to locate the documents produced to UBS on February 27, 2021 (and any additional parameters used for the previous requests from UBS);
- Identity of counsel to, and trustees of, CDO Fund or SOHC;
- Current or last effective investment manager agreements for CDO Fund and SOHC, including any management fee schedule, and any documentation regarding the termination of those agreements;
- The tax returns for the CDO Fund and SOHC from 2017-present;
- Communications between any employees of Sentinel (or its affiliates) and any employees of the HCMLP Parties, CDO Fund, SOHC, or any of Dondero, Leventon, or Ellington from 2017-present;
- Documents or communications regarding or relating to the Purchase Agreement, Insurance Policy, or June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) amendments to these documents, (ii) transfer of assets pursuant to these documents, (iii) board minutes or resolutions regarding or relating to these documents, (iv) claims made on the Insurance Policy; (v) communications with the IRS regarding the asset transfer pursuant to these documents; and (vi) any similar asset purchase agreements, capital transfer agreements, or similar agreements;
- Documents or communications regarding or relating to the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from 2017 to present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo;
- Documents showing the organizational structure of Sentinel and its affiliated entities, including information on Dondero’s relationship to Sentinel;
- Any factual information provided by current or former employees of the HCMLP Parties, CDO Fund, SOHC, or Sentinel regarding or relating to the Purchase Agreement, Insurance Policy, Tax Memo, and/or transfer of assets pursuant to those documents;
- Debtor’s settlement agreements with Ellington and Leventon;
- Copies of all prior and future Monthly Reports and Valuation Reports (as defined in the Indenture, dated as of December 20, 2007, among Greenbriar CLO Ltd., Greenbriar CLO Corp., and State Street Bank and Trust Company); and
- Identity of any creditors of CDO Fund, SOHC, or HFP and amount of debts owed to those creditors by CDO Fund, SOHC, or HFP, including without limitation any debts owed to the Debtor.

1 APPEARANCES, cont'd.:

2 For Get Good Trust and Douglas S. Draper
3 Dugaboy Investment Trust: HELLER, DRAPER & HORN, LLC
4 650 Poydras Street, Suite 2500
New Orleans, LA 70130
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5 For James Dondero: Bryan C. Assink
6 Clay M. Taylor
7 BONDS ELLIS EPPICH SCHAFER
8 JONES, LLP
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(817) 405-6925

9 Recorded by: Michael F. Edmond, Sr.
10 UNITED STATES BANKRUPTCY COURT
11 1100 Commerce Street, 12th Floor
12 Dallas, TX 75242
(214) 753-2062

13 Transcribed by: Kathy Rehling
14 311 Paradise Cove
15 Shady Shores, TX 76208
16 (972) 786-3063

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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 DALLAS, TEXAS - MAY 21, 2021 - 8:57 A.M.

2 (Proceedings called to order at 8:57 a.m. Counsel
3 appearances made by Robert Feinstein and Jeffrey Pomerantz for
4 the Debtors; by Andrew Clubok and Kimberly Posin for UBS
5 Securities; by Douglas Draper for Dugaboy Trust; and by Clay
6 Taylor and Bryan Assink for James Dondero. Andrew Clubok
7 announced stipulated agreement on admission of parties'
8 exhibits. Audio recording begins at 9:10 a.m.)

9 THE COURT: All right.

10 MR. DRAPER: This is Douglas Draper.

11 THE COURT: Okay.

12 MR. DRAPER: I'm sorry. I have no objection, just so
13 the record is clear.

14 (Interruption.)

15 MR. DRAPER: I think the agreement is I will
16 stipulate for the Debtors' exhibits and the Debtors can
17 stipulate with respect to my exhibits, that all of these are
18 in solely for purposes of this hearing today.

19 THE COURT: Okay. Thank you. So, the UBS exhibits,
20 which are at Docket Entry 2336, are admitted by stipulation.

21 (UBS's exhibits at Docket Entry 2336 are received into
22 evidence.)

23 THE COURT: And let's talk about where everyone
24 else's appear. I just want to double-check, because sometimes
25 amendments are filed.

1 A It says we're supposed to cooperate with UBS and
2 participate as applicable in the investigation or prosecution
3 of claims or requests for injunctive relief against the Funds,
4 Multi-Strat, Sentinel, Dondero, Leventon, Ellington, Dean,
5 Walter, Sevilla, DiOrio, and Irving. And then it -- it has a
6 catchall.

7 Q And the two operative words are cooperate and prosecution
8 of claims. Correct?

9 MR. MORRIS: Objection to the form of the question.

10 THE WITNESS: I would say it's --

11 THE COURT: Overruled.

12 THE WITNESS: -- the operative words are cooperate
13 and participate as applicable. And then it's either cooperate
14 or participate in what.

15 BY MR. DRAPER:

16 Q All right. And then later on in the document it basically
17 says -- and you can read this, please -- that if funds -- if
18 the Debtor receives funds or has funds that were stripped out
19 of other entities, it will take those funds or assets and give
20 them to UBS. Is that correct?

21 MR. DRAPER: Objection.

22 THE WITNESS: I don't believe that's exactly true.
23 Where are you pointing me to?

24 THE COURT: Overruled.

25 BY MR. DRAPER:

Seery - Cross

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1 contemplates that, that specific --

2 Q But isn't that what the document says and that's what you
3 testified to at your deposition, Mr. Seery?

4 A I don't think that's what the document says. I think that
5 might be an interpretation one might have, but we have a
6 release.

7 Q Okay. Now, wait. You have a release, but you have to
8 comply with this agreement. There's an exclusion in this
9 release that requires you to comply with the agreement,
10 correct?

11 A Correct.

12 Q So, if, in fact, the Debtor has an asset that was stripped
13 out of another entity, under this agreement, notwithstanding
14 that release, it's required to give that asset back to UBS?

15 A That's not the case. It's the Funds and/or HFP.

16 Q Well, okay.

17 MR. MORRIS: Your Honor, I object. I mean, the
18 document speaks for itself. Mr. Draper can make whatever
19 argument he wants, but I don't know why we're wrestling over
20 what the language means when that's for Mr. Draper to argue
21 and for the Court to decide.

22 THE COURT: Okay. I'll overrule --

23 MR. DRAPER: Well, that -- Your Honor?

24 THE COURT: I'll let you continue to some extent.

25 MR. DRAPER: All right. Bryan, can you pull up Mr.

Seery - Cross

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1 Seery's deposition?

2 MR. MORRIS: Your Honor, I object. Until -- until
3 he's impeaching the witness, I just don't think it's
4 appropriate. He did it once before and I remained quiet. I
5 think he ought to just ask the question, and if he thinks that
6 he's deviating from prior testimony, he's welcome to cross-
7 examine.

8 MR. DRAPER: Your --

9 THE COURT: Okay. I sustain.

10 MR. DRAPER: Your Honor, I have asked the -- I have
11 asked the question. I asked him, was it his view of this
12 document that, if assets were stripped out of a fund and then
13 transferred to the Debtor, whether the Debtor would be
14 obligated to transfer it, and he said he didn't know.

15 THE WITNESS: That's not what you asked me. You said
16 any -- any entity. Out of --

17 MR. DRAPER: Okay.

18 THE WITNESS: -- the Funds and HFP, I said that's
19 what the sentence says.

20 MR. DRAPER: So, so my question, Your Honor, is: Mr.
21 Seery, if an asset was stripped out of the HFP and transferred
22 into the Debtor, the Debtor would be required under this
23 agreement to transfer it back to UBS?

24 THE WITNESS: We would be required to cooperate, if
25 you have that language back up, exactly what -- what it says.

1 BY MR. DRAPER:

2 Q And it's your view, based -- and I asked you this
3 question, that if that was the case, you would be required to
4 transfer it to HFP? I mean, to --

5 A Right.

6 Q -- to UBS?

7 A I think it's a fair -- fair reading. We do, as I said,
8 have a release. But if there is an asset that we determine
9 was stripped out of one of these entities, that's our
10 cooperation provision, yes.

11 Q All right. Now, in connection with the -- you mentioned a
12 subscription agreement. Isn't there a provision in the
13 subscription agreement for LP that gives an example where, if
14 in fact the general partner is a member of the Creditors'
15 Committee -- of a Creditors' Committee and also owns -- owes a
16 fiduciary duty to the partnership, that it will resign from
17 one -- one of those roles? It'll step down?

18 A I don't recall the specific provision. There's something
19 to that effect. I'm not sure if it says it will resign or it
20 may.

21 Q Okay. It says it will. But the Court can read that in
22 the subscription agreement.

23 Mr. Seery, don't these partnership agreements, each one of
24 them, have the ability for the general partner, where it faces
25 a conflict or a potential conflict, to hire an -- bring in an

1 of claims that they're getting in cash today, correct?

2 A Than they're getting in cash? No, that's incorrect.

3 Q No. Than they would be awarded today in their Class 8 and
4 9 and cash? When you total all that up, it's substantially
5 more than \$95 million, correct?

6 A Yes. Sixty plus sixty-five plus eighteen and a half is
7 more than \$95 million.

8 Q Okay. This settlement agreement, as you just went through
9 with Mr. Draper, requires the Debtor to cooperate with UBS; is
10 that correct?

11 A In specific instances, yes.

12 Q Okay. And in fact, you have to return any securities by
13 the certain list of the Funds that you may recover; is that
14 correct?

15 A It's -- it's a very specific document as to what we have
16 to do. So if there's a specific question, I'd prefer to read
17 the document.

18 Generally, we have a cooperation provision related to the
19 theft of the securities from CDO Fund, SOHC, and the related
20 entities. And if we find other things, that may also be
21 implicated by those cooperation provisions.

22 Q Okay. And will this settlement, if approved, take care of
23 all disputes between UBS and the Debtor?

24 A I believe it will, yes.

25 Q Okay. Then -- then I have to ask, what is the live

1 dispute that is ongoing by and between the Debtor and UBS,
2 such that there was the necessity of the filing of an
3 adversary?

4 A The Debtor is the manager of Multi-Strat. So, with
5 respect to UBS's disputes with Multi-Strat and Funds, we have
6 certain obligations under the documents that -- that were
7 touched on a little bit today, but only a very little bit, in
8 isolated, specific instances. So we have obligations as the
9 manager.

10 You may recall that when there was an issue with
11 distributions early in the case which were going to Dondero-
12 related entities and the Committee didn't want those
13 distributions to be made, we took a strong position that we
14 would go to court and seek to have the distributions made.
15 Subsequently, they were put into the Court registry by a
16 settlement agreed to by Mr. Dondero. But the Committee
17 objected and we took the position that that was our duty under
18 the docs.

19 So we have certain obligations, which Mr. Draper touched
20 on but didn't go through, to do certain things. And we will
21 continue to adhere to those obligations.

22 Q Okay. Thank you. Does your agreement to cooperate and --
23 and/or prosecute any causes of action that it needs to
24 participate in, would that include Highland Capital breaking
25 privilege and giving documents to UBS?

1 counsel was just focusing on, Your Honor, cooperation
2 provisions are in written agreements all the time. This is an
3 unusual set of circumstances, but it's because we keep finding
4 new frauds and fraudulent transactions that there needs to be
5 ongoing cooperation, because the independent board is the only
6 party really that has the best evidence and best records of
7 what happened to this Debtor and its affiliated entities over
8 the last 12 years.

9 It is not -- it should be surprising to no one that UBS
10 wanted the Debtor's cooperation in evaluating whether there
11 were further transfers and further frauds and in assisting UBS
12 in recouping assets that were fraudulently transferred away
13 from its judgment Debtors, SOHC and CDO Fund.

14 So we think that provision is unremarkable. It's not a
15 plan modification. It's, I mean, it's a typical provision in
16 a settlement agreement. This was on notice to all parties in
17 interest. So we think this is just another nonissue, Your
18 Honor, that the Debtor -- that Mr. Dondero is trying to throw
19 up to hold up progress in this case. We think that this was a
20 sound exercise of business judgment by the Debtor as
21 investment manager of Multi-Strat, and we encourage Your Honor
22 to make an explicit finding, given the -- just the outright
23 litigiousness of Mr. Dondero in multiple fronts.

24 We came to this Court for Your Honor's blessing because of
25 these constant attacks on the Debtor and its management and

1 THE COURT: All right. Well, if there's nothing
2 further, we'll probably see you next week on something. I
3 think next Tuesday. All right. We're adjourned.

4 MR. FEINSTEIN: Thank you, Your Honor.

5 THE CLERK: All rise.

6 (Proceedings concluded at 2:51 p.m.)

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CERTIFICATE

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I certify that the foregoing is a correct transcript from
the electronic sound recording of the proceedings in the
above-entitled matter.

23

/s/ Kathy Rehling

05/25/2021

24

Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

Date

25

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EXHIBIT
4




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 May 27, 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.

§
§
§
§
§
§

Chapter 11

Case No. 19-34054-sgj11

**ORDER APPROVING DEBTOR'S SETTLEMENT
WITH UBS SECURITIES LLC AND UBS AG LONDON BRANCH
AND AUTHORIZING ACTIONS CONSISTENT THEREWITH**

This matter having come before the Court on *Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith* [Docket No. 2199] (the "Motion"),² filed by Highland Capital Management, L.P., the debtor and debtor-in-possession (the "Debtor") in the above-captioned chapter 11 case (the "Bankruptcy Case"); and this Court having considered (a) the Motion; (b) 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.

Declaration of Robert J Feinstein in Support of the Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith [Docket No. 2200] (the "Feinstein Declaration"), and the exhibits annexed thereto including the Settlement Agreement attached as **Exhibit "1"** (the "Settlement Agreement"); (c) the arguments and law cited in the Motion; (d) the *Limited Preliminary Objection to Debtor's Motion for Entry of an Order Approving Settlement with UBS and Authorizing Actions Consistent Therewith* [Docket No. 2268] (the "Trusts' Preliminary Objection"), filed by The Dugaboy Investment Trust and the Get Good Trust (collectively the "Trusts"); (e) the *Supplemental Opposition to Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith* [Docket No. 2293] (the "Trusts' Supplemental Opposition"), filed by the Trusts; (f) *James Dondero's Objection Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith* [Docket No. 2295] (the "Dondero Objection" and collectively, with the Trusts' Preliminary Objection and the Trusts' Supplemental Opposition, the "Objections"), filed James Dondero; (g) the *Debtor's Omnibus Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith* [Docket No. 2308] (the "Debtor's Reply"), filed by the Debtor; (h) UBS's *Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith* [Docket No. 2310]; (i) the testimonial and documentary evidence admitted into evidence during the hearing held on May 21, 2021 (the "Hearing"), including assessing the credibility of the witness; and (j) the arguments made during the Hearing; 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 the Settlement Agreement fair and equitable; and this Court having analyzed, for the reasons stated on the record, (1) the probability of success in litigating the claims subject to the Settlement Agreement, with due consideration for the uncertainty in fact and law, (2) the complexity and likely duration of litigation and any attendant expense, inconvenience, and delay, and (3) all other factors bearing on the wisdom of the compromise, including: (i) the best interests of the creditors, with proper deference to their reasonable views, and (ii) that the settlement is the product of arms-length bargaining, and not of fraud or collusion; 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 that no other notice need be provided; and this Court having determined that the legal and factual bases set forth in the 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. All objections to the Motion are overruled.
3. The Settlement Agreement, attached hereto as **Exhibit 1**, is approved in all respects pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure.

4. The Debtor, UBS, and all other parties are authorized to take any and all actions necessary and desirable to implement the terms of the Settlement Agreement without need of further approval or notice.

5. The Court finds that the Debtor, in its capacity as investment manager of Multi-Strat, exercised sound business judgment in causing Multi-Strat to enter into the Settlement Agreement. Pursuant to Section 363(b) of the Bankruptcy Code, the Debtor, in its capacity as investment manager of Multi-Strat, is authorized to cause Multi-Strat to settle the claims UBS has asserted against Multi-Strat in the State Court and otherwise to cause Multi-Strat to take any and all actions necessary and desirable to implement the terms of the Settlement Agreement without need of further approval or notice.

6. The Court shall retain exclusive jurisdiction to hear and determine all matters arising from the implementation of this Order.

###End of Order###

EXHIBIT 1

EXECUTION VERSION

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is entered into as of March 30, 2021, by and among (i) Highland Capital Management, L.P. (“HCMLP” or the “Debtor”), (ii) Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat,” and together with its general partner and its direct and indirect wholly-owned subsidiaries, the “MSCF Parties”), (iii) Strand Advisors, Inc. (“Strand”), and (iv) UBS Securities LLC and UBS AG London Branch (collectively, “UBS”).

Each of HCMLP, the MSCF Parties, Strand, and UBS are sometimes referred to herein collectively as the “Parties” and individually as a “Party.”

R E C I T A L S

WHEREAS, in 2007, UBS entered into certain contracts with HCMLP and two funds managed by HCMLP—Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”) and Highland Special Opportunities Holding Company (“SOHC,” and together with CDO Fund, the “Funds”) related to a securitization transaction (the “Knox Agreement”);

WHEREAS, in 2008, the parties to the Knox Agreement restructured the Knox Agreement;

WHEREAS, UBS terminated the Knox Agreement and, on February 24, 2009, UBS filed a complaint in the Supreme Court of the State of New York, County of New York (the “State Court”) against HCMLP and the Funds seeking to recover damages related to the Knox Agreement, in an action captioned *UBS Securities LLC, et al. v. Highland Capital Management, L.P., et al.*, Index No. 650097/2009 (N.Y. Sup. Ct.) (the “2009 Action”);

WHEREAS, UBS’s lone claim against HCMLP in the 2009 Action for indemnification was dismissed in early 2010, and thereafter UBS amended its complaint in the 2009 Action to add five new defendants, Highland Financial Partners, L.P. (“HFP”), Highland Credit Strategies Master Funds, L.P. (“Credit-Strat”), Highland Crusader Offshore Partners, L.P. (“Crusader”), Multi-Strat, and Strand, and to add new claims for fraudulent inducement, fraudulent conveyance, tortious interference with contract, alter ego, and general partner liability;

WHEREAS, UBS filed a new, separate action against HCMLP on June 28, 2010, for, *inter alia*, fraudulent conveyance and breach of the implied covenant of good faith and fair dealing, captioned *UBS Securities LLC, et al. v. Highland Capital Management, L.P.*, Index No. 650752/2010 (N.Y. Sup. Ct.) (the “2010 Action”);

WHEREAS, in November 2010, the State Court consolidated the 2009 Action and the 2010 Action (hereafter referred to as the “State Court Action”), and on May 11, 2011, UBS filed a Second Amended Complaint in the 2009 Action;

WHEREAS, in 2015, UBS entered into settlement agreements with Crusader and Credit-Strat, and thereafter UBS filed notices with the State Court in the State Court Action dismissing its claims against Crusader and Credit-Strat;

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WHEREAS, the State Court bifurcated claims asserted in the State Court Action for purposes of trial, with the Phase I bench trial deciding UBS’s breach of contract claims against the Funds and HCMLP’s counterclaims against UBS;

WHEREAS, on August 7, 2017, the Funds, along with Highland CDO Opportunity Fund, Ltd., Highland CDO Holding Company, Highland Financial Corp., and HFP, purportedly sold assets with a purported collective fair market value of \$105,647,679 (the “Transferred Assets”) and purported face value of over \$300,000,000 to Sentinel Reinsurance, Ltd. (“Sentinel”) pursuant to a purported asset purchase agreement (the “Purchase Agreement”);

WHEREAS, Sentinel treated the Transferred Assets as payment for a \$25,000,000 premium on a document entitled “Legal Liability Insurance Policy” (the “Insurance Policy”);

WHEREAS, the Insurance Policy purports to provide coverage to the Funds for up to \$100,000,000 for any legal liability resulting from the State Court Action (the “Insurance Proceeds”);

WHEREAS, one of the Transferred Assets CDO Fund transferred to Sentinel was CDO Fund’s limited partnership interests in Multi-Strat (the “CDOF Interests”);

WHEREAS, Sentinel had also received from HCMLP limited partnership interests in Multi-Strat for certain cash consideration (together with the CDOF Interests, the “MSCF Interests”);

WHEREAS, the existence of the Purchase Agreement and Insurance Policy were unknown to Strand’s independent directors and the Debtor’s bankruptcy advisors prior to late January 2021;

WHEREAS, in early February 2021, the Debtor disclosed the existence of the Purchase Agreement and Insurance Policy to UBS;

WHEREAS, prior to such disclosure, the Purchase Agreement and Insurance Policy were unknown to UBS;

WHEREAS, on November 14, 2019, following the Phase I trial, the State Court issued its decision determining that the Funds breached the Knox Agreement on December 5, 2008 and dismissing HCMLP’s counterclaims;

WHEREAS, Sentinel purportedly redeemed the MSCF Interests in November 2019 and the redeemed MSCF Interests are currently valued at approximately \$32,823,423.50 (the “Sentinel Redemption”);

WHEREAS, on February 10, 2020, the State Court entered a Phase I trial judgment against the Funds in the amount of \$1,039,957,799.44 as of January 22, 2020 (the “Phase I Judgment”);

WHEREAS, Phase II of the trial of the State Court Action, includes, *inter alia*, UBS’s claim for breach of implied covenant of good faith and fair dealing against HCMLP, UBS’s

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fraudulent transfer claims against HCMLP, HFP, and Multi-Strat, and UBS’s general partner claim against Strand;

WHEREAS, on October 16, 2019, HCMLP filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Case”). The Bankruptcy Case was transferred to the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) on December 4, 2019;

WHEREAS, Phase II of the trial of the State Court Action was automatically stayed as to HCMLP by HCMLP’s bankruptcy filing;

WHEREAS, on May 11, 2020, UBS, Multi-Strat, Highland Credit Opportunities CDO, Ltd., and Highland Credit Opportunities CDO Asset Holdings, L.P. (collectively, the “May Settlement Parties”), entered into a Settlement Agreement (the “May Settlement”) pursuant to which the May Settlement Parties agreed to the allocation of the proceeds of certain sales of assets held by Multi-Strat, including escrowing a portion of such funds, and restrictions on Multi-Strat’s actions;

WHEREAS, on June 26, 2020, UBS timely filed two substantively identical claims in the Bankruptcy Case: (i) Claim No. 190 filed by UBS Securities LLC; and (ii) Claim No. 191 filed by UBS AG London Branch (hereinafter collectively referred to as the “UBS Claim”). The UBS Claim asserts a general unsecured claim against HCMLP for \$1,039,957,799.40;

WHEREAS, on August 3, 2020, the Bankruptcy Court entered an *Order Directing Mediation* [Docket No. 912] pursuant to which HCMLP, UBS, and several other parties were directed to mediate their Bankruptcy Case disputes before two experienced third-party mediators, Retired Judge Allan Gropper and Sylvia Mayer (together, the “Mediators”). HCMLP and UBS formally met with the Mediators together and separately on numerous occasions, including on August 27, September 2, 3, and 4, and December 17, 2020, and had numerous other informal discussions outside of the presence of the Mediators, in an attempt to resolve the UBS Claim;

WHEREAS, on August 7, 2020, HCMLP filed an objection to the UBS Claim [Docket No. 928]. Also on August 7, 2020, the Redeemer Committee of the Highland Crusader Fund, and Crusader, Highland Crusader Fund, L.P., Highland Crusader Fund, Ltd., and Highland Crusader Fund II, Ltd. (collectively, the “Redeemer Committee”), objected to the UBS Claim [Docket No. 933]. On September 25, 2020, UBS filed its response to these objections [Docket No. 1105];

WHEREAS, on October 16, 2020, HCMLP and the Redeemer Committee each moved for partial summary judgment on the UBS Claim [Docket Nos. 1180 and 1183, respectively], and on November 6, 2020, UBS opposed these motions [Docket No. 1337];

WHEREAS, by Order dated December 9, 2020, the Bankruptcy Court granted, as set forth therein, the motions for partial summary judgment filed by HCMLP and the Redeemer Committee and denied UBS’s request for leave to file an amended proof of claim [Docket No. 1526];

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WHEREAS, on November 6, 2020, UBS filed *UBS’s Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018* [Docket No. 1338] (the “3018 Motion”), and on November 16, 2020, HCMLP and the Redeemer Committee each opposed the 3018 Motion [Docket Nos. 1404 and 1409, respectively];

WHEREAS, by Order dated December 8, 2020, the Bankruptcy Court granted the 3018 Motion and allowed the UBS Claim, on a temporary basis and for voting purposes only, in the amount of \$94,761,076 [Docket No. 1518];

WHEREAS, on January 22, 2021, the Debtor filed the *Fifth Amended Plan of Reorganization for Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, and as may be further amended, supplemented, or otherwise modified, the “Plan”);

WHEREAS, on March 29, 2021, the Debtor caused CDO Fund to make a claim on the Insurance Policy to collect the Insurance Proceeds pursuant to the Phase I Judgment;

WHEREAS, on March 29, 2021, UBS filed an adversary proceeding seeking injunctive relief and a motion for a temporary restraining order and preliminary injunction to, among other things, enjoin the Debtor from allowing Multi-Strat to distribute the Sentinel Redemption to Sentinel or any transferee of Sentinel (the “Multi-Strat Proceeding”), which relief the Debtor, in its capacity as Multi-Strat’s investment manager and general partner, does not oppose;

WHEREAS, the Parties wish to enter into this Agreement to settle all claims and disputes between and among them, to the extent and on the terms and conditions set forth herein, and to exchange the mutual releases set forth herein, without any admission of fault, liability, or wrongdoing on the part of any Party; and

WHEREAS, this Agreement will be presented to the Bankruptcy Court for approval pursuant to Federal Rule of Bankruptcy Procedure 9019 (“Rule 9019”) and section 363 of the Bankruptcy Code;

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:

A G R E E M E N T

1. Settlement of Claims. In full and complete satisfaction of the UBS Released Claims (as defined below):

(a) The UBS Claim will be allowed as (i) a single, general unsecured claim in the amount of \$65,000,000 against HCMLP, which shall be treated as a Class 8 General Unsecured Claim under the Plan;¹ and (ii) a single, subordinated unsecured claim in the amount of \$60,000,000 against HCMLP, which shall be treated as a Class 9 Subordinated General Unsecured Claim under the Plan.

¹ Capitalized terms used but not defined herein shall have the meanings attributed to them in the Plan.

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(b) Multi-Strat will pay UBS the sum of \$18,500,000 (the “Multi-Strat Payment”) as follows: (i) within two (2) business days after the Order Date, the May Settlement Parties will submit a Joint Release Instruction (as defined in the May Settlement) for the release of the amounts held in the Escrow Account (as defined in the May Settlement) to be paid to UBS in partial satisfaction of the Multi-Strat Payment on the date that is ten (10) business days following the Order Date; and (ii) Multi-Strat will pay UBS the remainder of the Multi-Strat Payment in immediately available funds on the date that is ten (10) business days following the Order Date, provided that, for the avoidance of doubt, the amounts held in the Escrow Account will not be paid to UBS until and unless the remainder of the Multi-Strat Payment is made.

(c) Subject to applicable law, HCMLP will use reasonable efforts to (i) cause CDO Fund to pay the Insurance Proceeds in full to UBS as soon as practicable, but no later than within 5 business days of CDO Fund actually receiving the Insurance Proceeds from or on behalf of Sentinel; (ii) if Sentinel refuses to pay the Insurance Proceeds, take legal action reasonably designed to recover the Insurance Proceeds or the MSCF Interests or to return the Transferred Assets to the Funds to satisfy the Phase I Judgment and in addition shall provide reasonable assistance to UBS in connection with any legal action UBS takes to recover the Insurance Proceeds or to return the Transferred Assets to the Funds to satisfy the Phase I Judgment or obtain rights to the MSCF interests, including but not limited to the redemption payments in connection with the MSCF Interests; (iii) cooperate with UBS and participate (as applicable) in the investigation or prosecution of claims or requests for injunctive relief against the Funds, Multi-Strat, Sentinel, James Dondero, Isaac Leventon, Scott Ellington, Andrew Dean, Christopher Walter, Jean Paul Sevilla, Matthew DiOrio, Katie Irving, and/or any other current or former employee or director of the Funds or Sentinel and/or any other former employee or former director of any of the HCMLP Parties that is believed to be involved with the Purchase Agreement, Insurance Policy, Transferred Assets, the transfer of the MSCF Interests, or any potentially fraudulent transfer of assets from the Funds to Sentinel, excluding the individuals listed on the schedule provided to UBS on March 25, 2021 (the “HCMLP Excluded Employees”); (iv) as soon as reasonably practicable, provide UBS with all business and trustee contacts at the Funds, HFP, Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd, Eastland CLO Ltd, Grayson CLO Ltd, Valhalla CLO Ltd, and Governance Re Ltd, if any, that are actually known by the Debtor after reasonable inquiry; (v) as soon as reasonably practicable, provide UBS with a copy of the governing documents, prospectuses, and indenture agreements for the Funds, HFP, Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd, Eastland CLO Ltd, Grayson CLO Ltd, Valhalla CLO Ltd, and Governance Re Ltd, as applicable, that are in the Debtor’s actual possession, custody, or control, (vi) as soon as reasonably practicable, provide, to the extent possible, any CUSIP numbers of the securities of the Funds, HFP, Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd, Eastland CLO Ltd, Grayson CLO Ltd, Valhalla CLO Ltd, and Governance Re Ltd., as applicable, including information regarding the location and amount of any cash related to those entities’ holdings, in each case only to the extent actually known by the Debtor after reasonable inquiry; (vii) cooperate with UBS to assign or convey any such assets described in Section 1(c)(vi) or any other assets owned or controlled by the Funds and/or HFP, including for avoidance of doubt any additional assets currently unknown to the Debtor that the Debtor discovers in the future after the Agreement Effective Date; (viii) respond as promptly as reasonably possible to requests by UBS for access to relevant documents and approve as promptly as reasonably possible requests for access to relevant documents from third parties as needed with respect to the Transferred Assets, the Purchase Agreement, the Insurance Policy, the

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MSCF Interests and any other assets currently or formerly held by the Funds or HFP, including without limitation the requests listed in **Appendix A** (provided, however, that the provision of any such documents or access will be subject to the common interest privilege and will not constitute a waiver of any attorney-client or other privilege in favor of HCMLP) that are in the Debtor's actual possession, custody, or control; (ix) preserve all documents in HCMLP's possession, custody, or control regarding or relating to the Purchase Agreement, the Insurance Policy, the MSCF Interests, or any transfer of assets from the Funds to Sentinel, including but not limited to the documents requested in Appendix A, from 2016 to present, and issue a litigation hold to all individuals deemed reasonably necessary regarding the same; and (x) otherwise use reasonable efforts to assist UBS to collect its Phase I Judgment against the Funds and HFP and assets the Funds and/or HFP may own, or have a claim to under applicable law ahead of all other creditors of the Funds and HFP; provided, however, that, from and after the date hereof, HCMLP shall not be required to incur any out-of-pocket fees or expenses, including, but not limited to, those fees and expenses for outside consultants and professionals (the "Reimbursable Expenses"), in connection with any provision of this Section 1(c) in excess of \$3,000,000 (the "Expense Cap"), and provided further that, for every dollar UBS recovers from the Funds (other than the assets related to Greenbriar CLO Ltd. or Greenbriar CLO Corp.), Sentinel, Multi-Strat (other than the amounts set forth in Section 1(b) hereof), or any other person or entity described in Section 1(c)(iii) in connection with any claims UBS has that arise out of or relate to the Phase I Judgment, the Purchase Agreement, the Insurance Policy, the Transferred Assets, the MSCF Interests, or the Insurance Proceeds (the "UBS Recovery"), UBS will reimburse HCMLP ten percent of the UBS Recovery for the Reimbursable Expenses incurred by HCMLP, subject to: (1) the occurrence of the Agreement Effective Date and (2) UBS's receipt and review of invoices and time records (which may be redacted as reasonably necessary) for outside consultants and professionals in connection with such efforts described in this Section 1(c), up to but not exceeding the Expense Cap after any disputes regarding the Reimbursable Expenses have been resolved pursuant to procedures to be agreed upon, or absent an agreement, in a manner directed by the Bankruptcy Court; and provided further that in any proceeding over the reasonableness of the Reimbursable Expenses, the losing party shall be obligated to pay the reasonable fees and expenses of the prevailing party; and provided further that any litigation in which HCMLP is a co-plaintiff with UBS or a plaintiff pursuing claims on behalf of or for UBS's benefit pursuant to this Section 1(c) shall be conducted in consultation with UBS, including but not limited to the selection of necessary outside consultants and professionals to assist in such litigation; and provided further that UBS shall have the right to approve HCMLP's selection of outside consultants and professionals to assist in any litigation in which HCMLP is a co-plaintiff with UBS or a plaintiff pursuing claims on behalf of or for UBS's benefit pursuant to this Section 1(c).

(d) Redeemer Appeal.

(i) On the Agreement Effective Date, provided that neither the Redeemer Committee nor any entities acting on its behalf or with any assistance from or coordination with the Redeemer Committee have objected to this Agreement or the 9019 Motion (as defined below), UBS shall withdraw with prejudice its 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* [Docket No. 1273] (the "Redeemer Appeal"); and

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(ii) The Parties have stipulated to extend the deadline for the filing of any briefs in the Redeemer Appeal to June 30, 2021 and will agree to such further extensions as necessary to facilitate this Settlement Agreement.

(e) As of the Agreement Effective Date, the restrictions and obligations set forth in the May Settlement, other than those in Section 7 thereof, shall be extinguished in their entirety and be of no further force or effect.

(f) On the Agreement Effective Date, the Debtor shall instruct the claims agent in the Bankruptcy Case to adjust the claims register in accordance with this Agreement.

(g) On the Agreement Effective Date, any claim the Debtor may have against Sentinel or any other party, and any recovery related thereto, with respect to the MSCF Interests shall be automatically transferred to UBS, without any further action required by the Debtor. For the avoidance of doubt, the Debtor shall retain any and all other claims it may have against Sentinel or any other party, and the recovery related thereto, unrelated to the MSCF Interests.

2. Definitions.

(a) “Agreement Effective Date” shall mean the date the full amount of the Multi-Strat Payment defined in Section 1(b) above, including without limitation the amounts held in the Escrow Account (as defined in the May Settlement), is actually paid to UBS.

(b) “HCMLP Parties” shall mean (a) HCMLP, in its individual capacity; (b) HCMLP, as manager of Multi-Strat; and (c) Strand.

(c) “Order Date” shall mean the date of an order entered by the Bankruptcy Court approving this Agreement pursuant to a motion filed under Rule 9019 and section 363 of the Bankruptcy Code.

(d) “UBS Parties” shall mean UBS Securities LLC and UBS AG London Branch.

3. Releases.

(a) **UBS Releases.** Upon the occurrence of the Agreement Effective Date, and to the maximum extent permitted by law, each of the UBS Parties hereby forever, finally, fully, unconditionally, irrevocably, and completely releases, relieves, acquits, remises, exonerates, forever discharges, and covenants never to sue (A) the HCMLP Parties and each of their current and former advisors, attorneys, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (each in their capacities as such), except as expressly set forth below, and (B) the MSCF Parties and each of their current and former advisors, attorneys, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (each in their capacities as such), except as expressly set forth below, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorneys’ fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known

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or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, or statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those that have been or could have been alleged or asserted in the State Court Action or the Bankruptcy Case (collectively, the “UBS Released Claims”), provided, however, that notwithstanding anything to the contrary herein, such releases shall not apply to (1) the obligations of the HCMLP Parties and MSCF Parties under this Agreement, including without limitation the allowance of or distributions on account of the UBS Claim or the settlement terms described in Sections 1(a)-(g) above; (2) the Funds or HFP, including for any liability with respect to the prosecution, enforcement, collection, or defense of the Phase I Judgment, Purchase Agreement, and/or Insurance Policy, or such prosecution, enforcement, collection, or defense of the Phase I Judgment, Purchase Agreement, and/or Insurance Policy by UBS; (3) James Dondero or Mark Okada, or any entities, including without limitation Hunter Mountain Investment Trust, Dugaboy Investment Trust, and NexBank, SSB, owned or controlled by either of them, other than the HCMLP Parties and MSCF Parties (but for the avoidance of doubt, such releases of the HCMLP Parties and MSCF Parties shall be solely with respect to such entities and shall not extend in any way to James Dondero or Mark Okada in their individual capacity or in any other capacity, including but not limited to as an investor, officer, trustee, or director in the HCMLP Parties or MSCF Parties); (4) Sentinel or its subsidiaries, parents, affiliates, successors, designees, assigns, employees, or directors, including James Dondero, Isaac Leventon, Scott Ellington, Andrew Dean, Christopher Walter, Jean Paul Sevilla, Matthew DiOrio, Katie Irving, and/or any other current or former employee or director of the Funds or Sentinel and/or any other former employee or former director of any of the HCMLP Parties that is believed to be involved with the Purchase Agreement, Insurance Policy, MSCF Interests, or Transferred Assets, including for any liability with respect to the prosecution, enforcement, collection, or defense of the Phase I Judgment, Purchase Agreement, the MSCF Interests, any potentially fraudulent transfer of assets from the Funds to Sentinel and/or Insurance Policy, excluding the HCMLP Excluded Employees; (5) the economic rights or interests of UBS in its capacity as an investor, directly or indirectly (including in its capacity as an investment manager and/or investment advisor), in any HCMLP-affiliated entity, including without limitation in the Redeemer Committee and Credit Strat, and/or in such entities’ past, present or future subsidiaries and feeders funds (the “UBS Unrelated Investments”); and (6) any actions taken by UBS against any person or entity, including any HCMLP Party or MSCF Party, to enjoin a distribution on the Sentinel Redemption or the transfer of any assets currently held by or within the control of CDO Fund to Sentinel or a subsequent transferee or to seek to compel any action that only such person or entity has standing to pursue or authorize in order to permit UBS to recover the Insurance Proceeds, Transferred Assets, the Phase I Judgment or any recovery against HFP; provided, however, that, from and after the date hereof, any out-of-pocket fees or expenses incurred by HCMLP in connection with this Section 3(a)(6) will be considered Reimbursable Expenses and shall be subject to, and applied against, the Expense Cap as if they were incurred by HCMLP pursuant to Section 1(c) subject to the occurrence of the Agreement Effective Date and after any disputes regarding such Reimbursable Expenses have been resolved in the manner described in Section 1(c).

(b) **HCMLP Release.** Upon the occurrence of the Agreement Effective Date, and to the maximum extent permitted by law, each of the HCMLP Parties hereby forever, finally, fully, unconditionally, irrevocably, and completely releases, relieves, acquits, remises, exonerates, forever discharges, and covenants never to sue any of the UBS Parties and each of

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their current and former advisors, attorneys, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (each in their capacities as such), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorneys' 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, or statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those that have been or could have been alleged or asserted in the State Court Action or the Bankruptcy Case (collectively, the "HCMLP Released Claims"), provided, however, that notwithstanding anything to the contrary herein, such releases shall not apply to the obligations of the UBS Parties under this Agreement or Section 7 of the May Settlement; and (b) the obligations of the UBS Parties in connection with the UBS Unrelated Investments.

(c) **Multi-Strat Release.** Upon the occurrence of the Agreement Effective Date, and to the maximum extent permitted by law, each of the MSCF Parties hereby forever, finally, fully, unconditionally, irrevocably, and completely releases, relieves, acquits, remises, exonerates, forever discharges, and covenants never to sue any of the UBS Parties and each of their current and former advisors, attorneys, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (each in their capacities as such), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorneys' 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, or statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those that have been or could have been alleged or asserted in the State Court Action or the Bankruptcy Case (collectively, the "Multi-Strat Released Claims"), provided, however, that notwithstanding anything to the contrary herein, such releases shall not apply to the obligations of the UBS Parties under this Agreement or Section 7 of the May Settlement.

4. No Third Party Beneficiaries. Except for the parties released by this Agreement, no other person or entity shall be deemed a third-party beneficiary of this Agreement.

5. UBS Covenant Not to Sue. Subject to the occurrence of the Agreement Effective date, if UBS ever controls any HCMLP-affiliated defendant in the State Court Action by virtue of the prosecution, enforcement, or collection of the Phase I Judgment (collectively, the "Controlled State Court Defendants"), UBS covenants on behalf of itself and the Controlled State Court Defendants, if any, that neither UBS nor the Controlled State Court Defendants will assert or pursue any claims that any Controlled State Court Defendant has or may have against any of the HCMLP Parties; provided, however, that nothing shall prohibit UBS or a Controlled State Court Defendant from taking any of the actions set forth in Section 3(a)(1)-(6); provided further, however, if and to the extent UBS receives any distribution from any Controlled State Court Defendant that is derived from a claim by a Controlled State Court Defendant against the Debtor, subject to the exceptions set forth in Section 3(a), which distribution is directly

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attributable to any property the Controlled State Court Defendant receives from the Debtor and separate and distinct from property owned or controlled by CDO Fund, SOHC, or Multi-Strat, then such recovery shall be credited against all amounts due from the Debtor's estate on account of the UBS Claim allowed pursuant to Section 1(a) of this Agreement, or if such claim has been paid in full, shall be promptly turned over to the Debtor or its successors or assigns.

6. Agreement Subject to Bankruptcy Court Approval.

(a) The force and effect of this Agreement and the Parties' obligations hereunder are conditioned in all respects on the approval of this Agreement and the releases herein by the Bankruptcy Court. The Parties agree to use reasonable efforts to have this Agreement expeditiously approved by the Bankruptcy Court by cooperating in the preparation and prosecution of a mutually agreeable motion and proposed order (the "9019 Motion") to be filed by the Debtor no later than five business days after execution of this Agreement by all Parties unless an extension is agreed to by both parties.

7. Representations and Warranties.

(a) Each UBS Party represents and warrants that (i) it has full authority to enter into this Agreement and to release the UBS Released Claims and has not sold, transferred, or assigned any UBS Released Claim to any other person or entity, and (ii) no person or entity other than such UBS Party has been, is, or will be authorized to bring, pursue, or enforce any UBS Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) such UBS Party.

(b) Each HCMLP Party represents and warrants that (i) it has full authority to enter into this Agreement and to release the HCMLP Released Claims and has not sold, transferred, or assigned any HCMLP Released Claim to any other person or entity, and (ii) no person or entity other than such HCMLP Party has been, is, or will be authorized to bring, pursue, or enforce any HCMLP Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) such HCMLP Party.

(c) Each MSCF Party represents and warrants that (i) it has full authority to enter into this Agreement and to release the Multi-Strat Released Claims and has not sold, transferred, or assigned any Multi-Strat Released Claim to any other person or entity, and (ii) no person or entity other than such MSCF Party has been, is, or will be authorized to bring, pursue, or enforce any Multi-Strat Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) such MSCF Party.

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8. No Admission of Liability. The Parties acknowledge that there is a bona fide dispute with respect to the UBS Claim. Nothing in this Agreement shall be construed, expressly or by implication, as an admission of liability, fault, or wrongdoing by HCMLP, the MSCF Parties, Strand, UBS, 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 MSCF Parties, Strand, UBS, or any other person.

9. 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.

10. Notice. Each notice and other communication hereunder shall be in writing and will, unless otherwise subsequently directed in writing, be delivered by email and overnight delivery, as set forth below, and will be deemed to have been given on the date following such mailing.

HCMLP Parties or the MSCF Parties

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: General Counsel
Telephone No.: 972-628-4100
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
E-mail: jpomerantz@pszjlaw.com

UBS

UBS Securities LLC
UBS AG London Branch
Attention: Elizabeth Kozlowski, Executive Director and Counsel
1285 Avenue of the Americas
New York, NY 10019
Telephone No.: 212-713-9007
E-mail: elizabeth.kozlowski@ubs.com

UBS Securities LLC
UBS AG London Branch
Attention: John Lantz, Executive Director
1285 Avenue of the Americas
New York, NY 10019

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Telephone No.: 212-713-1371
E-mail: john.lantz@ubs.com

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
Attention: Andrew Clubok
Sarah Tomkowiak
555 Eleventh Street, NW, Suite 1000
Washington, D.C. 20004-1304
Telephone No.: 202-637-3323
Email: andrew.clubok@lw.com
sarah.tomkowiak@lw.com

11. 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.

12. 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 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.

13. No Party Deemed Drafter. The Parties acknowledge that the terms of this Agreement are contractual and are the result of arm's-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.

14. Future Cooperation. The Parties agree to cooperate and execute such further documentation as is reasonably necessary to effectuate the intent of this Agreement.

15. 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.

EXECUTION VERSION

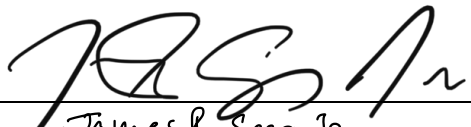
Photographic, electronic, and facsimile copies of signed counterparts may be used in lieu of the originals of this Agreement for any purpose.

16. 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 New York 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 Bankruptcy Case and thereafter to the exclusive jurisdiction of the state and federal courts located in the Borough of Manhattan, New York, 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).

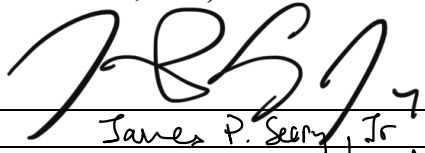
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IT IS HEREBY AGREED.

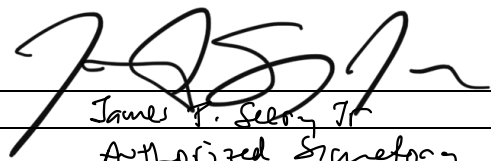
HIGHLAND CAPITAL MANAGEMENT, L.P.

By: 
Name: James P. Seery Jr.
Its: Authorized Signatory

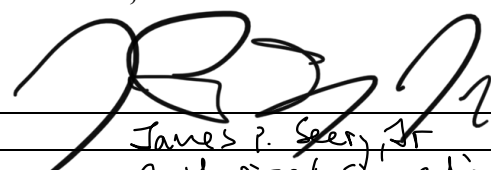
HIGHLAND MULTI STRATEGY CREDIT FUND, L.P. (f/k/a Highland Credit Opportunities CDO, L.P.)

By: 
Name: James P. Seery Jr.
Its: Authorized Signatory


HIGHLAND CREDIT OPPORTUNITIES CDO, Ltd.

By: 
Name: James P. Seery Jr.
Its: Authorized Signatory

HIGHLAND CREDIT OPPORTUNITIES CDO ASSET HOLDINGS, L.P.

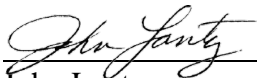
By: 
Name: James P. Seery Jr.
Its: Authorized Signatory


STRAND ADVISORS, INC.

By: 
Name: James P. Seery Jr.
Its: Authorized Signatory

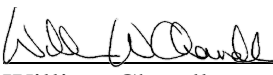
EXECUTION VERSION

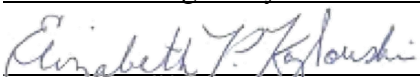
UBS SECURITIES LLC

By: 
Name: John Lantz
Its: Authorized Signatory

By: 
Name: Elizabeth Kozlowski
Its: Authorized Signatory

UBS AG LONDON BRANCH

By: 
Name: William Chandler
Its: Authorized Signatory

By: 
Name: Elizabeth Kozlowski
Its: Authorized Signatory

EXECUTION VERSION**APPENDIX A**

- The search parameters (custodians, date ranges, search terms) used to locate the documents produced to UBS on February 27, 2021 (and any additional parameters used for the previous requests from UBS);
- Identity of counsel to, and trustees of, CDO Fund or SOHC;
- Current or last effective investment manager agreements for CDO Fund and SOHC, including any management fee schedule, and any documentation regarding the termination of those agreements;
- The tax returns for the CDO Fund and SOHC from 2017-present;
- Communications between any employees of Sentinel (or its affiliates) and any employees of the HCMLP Parties, CDO Fund, SOHC, or any of Dondero, Leventon, or Ellington from 2017-present;
- Documents or communications regarding or relating to the Purchase Agreement, Insurance Policy, or June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) amendments to these documents, (ii) transfer of assets pursuant to these documents, (iii) board minutes or resolutions regarding or relating to these documents, (iv) claims made on the Insurance Policy; (v) communications with the IRS regarding the asset transfer pursuant to these documents; and (vi) any similar asset purchase agreements, capital transfer agreements, or similar agreements;
- Documents or communications regarding or relating to the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from 2017 to present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo;
- Documents showing the organizational structure of Sentinel and its affiliated entities, including information on Dondero’s relationship to Sentinel;
- Any factual information provided by current or former employees of the HCMLP Parties, CDO Fund, SOHC, or Sentinel regarding or relating to the Purchase Agreement, Insurance Policy, Tax Memo, and/or transfer of assets pursuant to those documents;
- Debtor’s settlement agreements with Ellington and Leventon;
- Copies of all prior and future Monthly Reports and Valuation Reports (as defined in the Indenture, dated as of December 20, 2007, among Greenbriar CLO Ltd., Greenbriar CLO Corp., and State Street Bank and Trust Company); and
- Identity of any creditors of CDO Fund, SOHC, or HFP and amount of debts owed to those creditors by CDO Fund, SOHC, or HFP, including without limitation any debts owed to the Debtor.

Andrew B. Clubok
Direct Dial: 1.202.637.3323
andrew.clubok@lw.com

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March 30, 2021

CONFIDENTIAL
VIA EMAIL AND OVERNIGHT MAIL

Matthew DiOrio
c/o Whitaker Chalk Swindle & Schwartz PLLC
Michael P. Hutchens, Esq.
301 Commerce Street
Suite 3500
Fort Worth, TX 76102-4135
Email: mhutchens@whitakerchalk.com

Re: Preservation Demand in Connection with *In re Highland Capital Management, L.P.*, No. 19-34054-sgj11 (Bankr. N.D. Tex.) and Adversary Case

Dear Counsel:

We represent UBS Securities LLC and UBS AG London Branch (together, “UBS”), creditors of Highland Capital Management, L.P. (“HCMLP” or the “Debtor”) in the above-captioned Chapter 11 case (the “Bankruptcy Case”). We also represent UBS in connection with pending litigation in the Supreme Court of the State of New York against HCMLP, Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”), Highland Special Opportunities Holding Company (“SOHC,” and together with CDO Fund, the “Funds”), and Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat”), among other defendants, in a consolidated action captioned *UBS Securities LLC et al. v. Highland Capital Management, L.P. et al.*, No. 650097/2009 (N.Y. Sup. Ct.) (the “UBS Litigation”).

The purpose of this document preservation notice (this “Notice”) is to notify Mr. DiOrio of his obligation to preserve documents and information relating in any way to the matters referenced herein. Please advise us immediately if you are not authorized to accept this Notice on behalf of Mr. DiOrio and confirm to whom this Notice should be directed.

UBS will soon commence an adversary proceeding against the Debtor (the “Adversary Case”) in connection with the Bankruptcy Case. In the Adversary Case, UBS alleges that the Debtor, acting through and at the direction of Mr. DiOrio and other current and/or former employees of HCMLP, fraudulently transferred hundreds of millions of dollars of assets (the “Transferred Assets”) away from the Funds and affiliated entities—in anticipation of a judgment that UBS obtained against the Funds in the UBS Litigation—to Sentinel Reinsurance, Ltd. (“Sentinel,” and together with its affiliates, the “Sentinel Entities”), a Cayman Islands entity that Mr. Dondero and Mr. Ellington owned and controlled.

UBS further alleges that certain of these assets were fraudulently transferred to Sentinel pursuant to a purported purchase agreement (the “Purchase Agreement”), dated as of August 7, 2017, purportedly to satisfy the premium on a legal liability insurance policy issued by Sentinel (the “Insurance Policy”), which policy was supposedly intended to insure the Funds against an adverse judgment in the UBS Litigation. Among the assets that were purportedly transferred to Sentinel are (i) a redemption interest in Multi-Strat (the “Sentinel Redemption”) and (ii) assets held by CDO Fund related to Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd., Eastland CLO Ltd., Grayson CLO Ltd., Valhalla CLO Ltd., and Governance Re, Ltd., including cash payments related to those assets (collectively, the “CDO Fund Assets”).

UBS will seek discovery from various parties and third parties in connection with the Adversary Case and any other legal actions that UBS may commence relating to the subject matter of this Notice, potentially including from Mr. DiOrio. Mr. DiOrio is receiving this preservation demand because we believe that Mr. DiOrio has documents or other materials that relate to the matters referenced herein. Applicable law and the rules of discovery require the immediate preservation of all documents and electronically stored information in Mr. DiOrio’s possession, custody, or control that relate in any way to these matters.

Pursuant to the Notice, UBS demands that Mr. DiOrio retain all documents and other materials in his possession, custody, or control (including such documents and materials in the possession or custody of Mr. DiOrio’s representatives, agents, employees, subsidiaries, or affiliates) that relate, directly or indirectly, to the subject matter of this Notice, including, *but not limited to*, any of the following:

- The Bankruptcy Case;
- The Adversary Case and any future claims or actions that UBS may bring relating to the subject matter of this Notice;
- UBS or the UBS Litigation, including without limitation any actual or potential judgments entered therein;
- The Sentinel Entities, including without limitation Sentinel Reinsurance, Ltd., Sentinel Holdings, Ltd., and SS Holdings, Ltd., and all predecessors, successors, directors, officers, employees, representatives, and agents of the Sentinel Entities;
- The Insurance Policy, including without limitation any claims made on the Insurance Policy, and all related documents and agreements;
- The Purchase Agreement and all related documents and agreements;
- All assets actually or potentially transferred from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities, including without limitation the value of all such assets;

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- All documents and agreements relating to any accounts in which such assets are or have been transferred, deposited, or held;
- All documents and agreements reflecting any actual or potential transfer of assets from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities;
- All actual or potential interests that any Sentinel Entities have had or purport to have in Multi-Strat, including without limitation any redemption interests, partnership interests, or other economic interests; and
- All documents and agreements relating to any subsequent transfers by the Sentinel Entities of any assets received from the Debtors, the Funds, or any affiliated entities.

For the avoidance of doubt, the foregoing topics are not intended to be exhaustive; Mr. DiOrio must retain all documents and other materials that relate in any way to the subject matter of this Notice. The terms “related to” or “relating to” should be construed as broadly as possible, and any doubts concerning the potential relevance of a document should be resolved in favor of preservation.

For purposes of this Notice, the term “documents” should be construed broadly to encompass all manner of communication and information, whether or not in physical or electronic form, and shall have the broadest meaning allowable under the Federal Rules of Civil Procedure and Federal Rules of Bankruptcy Procedure. “Documents” expressly include, without limitation, all of the following:

- Hard copy documents, including without limitation writings (whether typed or printed, or in final or draft form), printouts, calendars, handwritten notes, notebooks, sketches, photographs, drawings, photographs, and other tangible objects; and
- Electronic files and electronically stored information (“ESI”), including without limitation emails and attachments, text messages, chat messages, instant messages, electronic calendars, schedules, social media content and communications, video or sound recordings, pictures, presentations (*e.g.*, PowerPoint), spreadsheets, PDFs, word processing documents, presentations, voicemails, diagrams, images, databases, servers, metadata, and other electronic information, whether stored or maintained on a laptop, desktop computer, hard drive, server, network, legacy system, flash drive, internal or external hard drive, shared drive, CD, CD-ROM, DVD, PDA, tablet, iPad, iPhone, smartphone, Blackberry, computer log, or other removable media or storage device.

Mr. DiOrio must take all steps necessary to preserve all physical and electronic documents and ESI in his possession, custody, or control that relate to the subject matter of this Notice, including without limitation ensuring that potentially relevant documents are preserved intact and are not destroyed, altered, modified, or deleted. In particular, Mr. DiOrio must immediately suspend any document retention/destruction policies, including any backup tape recycling policies, that could result in the destruction or deletion of any potentially relevant documents in his possession, custody, or control, and must retain all software, hardware, or other information

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required to access or view potentially relevant ESI. Failure to take such actions may subject Mr. DiOrio to sanctions.

This preservation demand is continuing in nature and requires Mr. DiOrio's preservation of potentially relevant documents and materials that come into his possession, custody, or control after the date of this Notice.

Please acknowledge receipt of this Notice and promptly confirm that Mr. DiOrio will comply with this preservation demand.

Sincerely,



Andrew B. Clubok
of LATHAM & WATKINS LLP

Andrew B. Clubok
Direct Dial: 1.202.637.3323
andrew.clubok@lw.com

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Washington, D.C. 20004-1304
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March 30, 2021

CONFIDENTIAL
VIA EMAIL AND OVERNIGHT MAIL

Scott Byron Ellington
c/o Baker & McKenzie LLP
Michelle Hartman
1900 North Pearl
Suite 1500
Dallas, TX 76102

Debra A. Dandeneau
452 Fifth Ave.
New York, NY 10018

Email: michelle.hartman@bakermckenzie.com
debra.dandeneau@bakermckenzie.com

Re: Preservation Demand in Connection with *In re Highland Capital Management, L.P.*, No. 19-34054-sgj11 (Bankr. N.D. Tex.) and Adversary Case

Dear Counsel:

We represent UBS Securities LLC and UBS AG London Branch (together, “UBS”), creditors of Highland Capital Management, L.P. (“HCMLP” or the “Debtor”) in the above-captioned Chapter 11 case (the “Bankruptcy Case”). We also represent UBS in connection with pending litigation in the Supreme Court of the State of New York against HCMLP, Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”), Highland Special Opportunities Holding Company (“SOHC,” and together with CDO Fund, the “Funds”), and Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat”), among other defendants, in a consolidated action captioned *UBS Securities LLC et al. v. Highland Capital Management, L.P. et al.*, No. 650097/2009 (N.Y. Sup. Ct.) (the “UBS Litigation”).

The purpose of this document preservation notice (this “Notice”) is to notify Mr. Ellington of his obligation to preserve documents and information relating in any way to the matters referenced herein. Please advise us immediately if you are not authorized to accept this Notice on behalf of Mr. Ellington and confirm to whom this Notice should be directed.

UBS will soon commence an adversary proceeding against the Debtor (the “Adversary Case”) in connection with the Bankruptcy Case. In the Adversary Case, UBS alleges that the

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Debtor, acting through and at the direction of Mr. Ellington and other current and/or former employees of HCMLP, fraudulently transferred hundreds of millions of dollars of assets (the “Transferred Assets”) away from the Funds and affiliated entities—in anticipation of a judgment that UBS obtained against the Funds in the UBS Litigation—to Sentinel Reinsurance, Ltd. (“Sentinel,” and together with its affiliates, the “Sentinel Entities”), a Cayman Islands entity that Mr. Dondero and Mr. Ellington owned and controlled.

UBS further alleges that certain of these assets were fraudulently transferred to Sentinel pursuant to a purported purchase agreement (the “Purchase Agreement”), dated as of August 7, 2017, purportedly to satisfy the premium on a legal liability insurance policy issued by Sentinel (the “Insurance Policy”), which policy was supposedly intended to insure the Funds against an adverse judgment in the UBS Litigation. Among the assets that were purportedly transferred to Sentinel are (i) a redemption interest in Multi-Strat (the “Sentinel Redemption”) and (ii) assets held by CDO Fund related to Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd., Eastland CLO Ltd., Grayson CLO Ltd., Valhalla CLO Ltd., and Governance Re, Ltd., including cash payments related to those assets (collectively, the “CDO Fund Assets”).

UBS will seek discovery from various parties and third parties in connection with the Adversary Case and any other legal actions that UBS may commence relating to the subject matter of this Notice, potentially including from Mr. Ellington. Mr. Ellington is receiving this preservation demand because we believe that Mr. Ellington has documents or other materials that relate to the matters referenced herein. Applicable law and the rules of discovery require the immediate preservation of all documents and electronically stored information in Mr. Ellington’s possession, custody, or control that relate in any way to these matters.

Pursuant to the Notice, UBS demands that Mr. Ellington retain all documents and other materials in his possession, custody, or control (including such documents and materials in the possession or custody of Mr. Ellington’s representatives, agents, employees, subsidiaries, or affiliates) that relate, directly or indirectly, to the subject matter of this Notice, including, *but not limited to*, any of the following:

- The Bankruptcy Case;
- The Adversary Case and any future claims or actions that UBS may bring against Mr. Ellington relating to the subject matter of this Notice;
- UBS or the UBS Litigation, including without limitation any actual or potential judgments entered therein;
- The Sentinel Entities, including without limitation Sentinel Reinsurance, Ltd., Sentinel Holdings, Ltd., and SS Holdings, Ltd., and all predecessors, successors, directors, officers, employees, representatives, and agents of the Sentinel Entities;
- The Insurance Policy, including without limitation any claims made on the Insurance Policy, and all related documents and agreements;

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- The Purchase Agreement and all related documents and agreements;
- All assets actually or potentially transferred from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities, including without limitation the value of all such assets;
- All documents and agreements relating to any accounts in which such assets are or have been transferred, deposited, or held;
- All documents and agreements reflecting any actual or potential transfer of assets from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities;
- All actual or potential interests that any Sentinel Entities have had or purport to have in Multi-Strat, including without limitation any redemption interests, partnership interests, or other economic interests; and
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For the avoidance of doubt, the foregoing topics are not intended to be exhaustive; Mr. Ellington must retain all documents and other materials that relate in any way to the subject matter of this Notice. The terms “related to” or “relating to” should be construed as broadly as possible, and any doubts concerning the potential relevance of a document should be resolved in favor of preservation.

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- Electronic files and electronically stored information (“ESI”), including without limitation emails and attachments, text messages, chat messages, instant messages, electronic calendars, schedules, social media content and communications, video or sound recordings, pictures, presentations (*e.g.*, PowerPoint), spreadsheets, PDFs, word processing documents, presentations, voicemails, diagrams, images, databases, servers, metadata, and other electronic information, whether stored or maintained on a laptop, desktop computer, hard drive, server, network, legacy system, flash drive, internal or external hard drive, shared drive, CD, CD-ROM, DVD, PDA, tablet, iPad, iPhone, smartphone, Blackberry, computer log, or other removable media or storage device.

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Mr. Ellington must take all steps necessary to preserve all physical and electronic documents and ESI in his possession, custody, or control that relate to the subject matter of this Notice, including without limitation ensuring that potentially relevant documents are preserved intact and are not destroyed, altered, modified, or deleted. In particular, Mr. Ellington must immediately suspend any document retention/destruction policies, including any backup tape recycling policies, that could result in the destruction or deletion of any potentially relevant documents in his possession, custody, or control, and must retain all software, hardware, or other information required to access or view potentially relevant ESI. Failure to take such actions may subject Mr. Ellington to sanctions.

This preservation demand is continuing in nature and requires Mr. Ellington's preservation of potentially relevant documents and materials that come into his possession, custody, or control after the date of this Notice.

Please acknowledge receipt of this Notice and promptly confirm that Mr. Ellington will comply with this preservation demand.

Sincerely,



Andrew B. Clubok
of LATHAM & WATKINS LLP

Andrew B. Clubok
Direct Dial: 1.202.637.3323
andrew.clubok@lw.com

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Milan



March 30, 2021

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VIA EMAIL AND OVERNIGHT MAIL

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Michael P. Hutchens, Esq.
301 Commerce Street
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Re: Preservation Demand in Connection with *In re Highland Capital Management, L.P.*, No. 19-34054-sgj11 (Bankr. N.D. Tex.) and Adversary Case

Dear Counsel:

We represent UBS Securities LLC and UBS AG London Branch (together, “UBS”), creditors of Highland Capital Management, L.P. (“HCMLP” or the “Debtor”) in the above-captioned Chapter 11 case (the “Bankruptcy Case”). We also represent UBS in connection with pending litigation in the Supreme Court of the State of New York against HCMLP, Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”), Highland Special Opportunities Holding Company (“SOHC,” and together with CDO Fund, the “Funds”), and Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat”), among other defendants, in a consolidated action captioned *UBS Securities LLC et al. v. Highland Capital Management, L.P. et al.*, No. 650097/2009 (N.Y. Sup. Ct.) (the “UBS Litigation”).

The purpose of this document preservation notice (this “Notice”) is to notify Ms. Irving of her obligation to preserve documents and information relating in any way to the matters referenced herein. Please advise us immediately if you are not authorized to accept this Notice on behalf of Ms. Irving and confirm to whom this Notice should be directed.

UBS will soon commence an adversary proceeding against the Debtor (the “Adversary Case”) in connection with the Bankruptcy Case. In the Adversary Case, UBS alleges that the Debtor, acting through and at the direction of Mr. James D. Dondero and other current and/or former employees of HCMLP, fraudulently transferred hundreds of millions of dollars of assets (the “Transferred Assets”) away from the Funds and affiliated entities—in anticipation of a judgment that UBS obtained against the Funds in the UBS Litigation—to Sentinel Reinsurance, Ltd. (“Sentinel,” and together with its affiliates, the “Sentinel Entities”), a Cayman Islands entity that Mr. Dondero and Mr. Scott Byron Ellington owned and controlled.

UBS further alleges that certain of these assets were fraudulently transferred to Sentinel pursuant to a purported purchase agreement (the “Purchase Agreement”), dated as of August 7, 2017, purportedly to satisfy the premium on a legal liability insurance policy issued by Sentinel (the “Insurance Policy”), which policy was supposedly intended to insure the Funds against an adverse judgment in the UBS Litigation. Among the assets that were purportedly transferred to Sentinel are (i) a redemption interest in Multi-Strat (the “Sentinel Redemption”) and (ii) assets held by CDO Fund related to Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd., Eastland CLO Ltd., Grayson CLO Ltd., Valhalla CLO Ltd., and Governance Re, Ltd., including cash payments related to those assets (collectively, the “CDO Fund Assets”).

UBS will seek discovery from various parties and third parties in connection with the Adversary Case and any other legal actions that UBS may commence relating to the subject matter of this Notice, potentially including from Ms. Irving. Ms. Irving is receiving this preservation demand because we believe that Ms. Irving has documents or other materials that relate to the matters referenced herein. Applicable law and the rules of discovery require the immediate preservation of all documents and electronically stored information in Ms. Irving’s possession, custody, or control that relate in any way to these matters.

Pursuant to the Notice, UBS demands that Ms. Irving retain all documents and other materials in her possession, custody, or control (including such documents and materials in the possession or custody of Ms. Irving’s representatives, agents, employees, subsidiaries, or affiliates) that relate, directly or indirectly, to the subject matter of this Notice, including, *but not limited to*, any of the following:

- The Bankruptcy Case;
- The Adversary Case and any future claims or actions that UBS may bring relating to the subject matter of this Notice;
- UBS or the UBS Litigation, including without limitation any actual or potential judgments entered therein;
- The Sentinel Entities, including without limitation Sentinel Reinsurance, Ltd., Sentinel Holdings, Ltd., and SS Holdings, Ltd., and all predecessors, successors, directors, officers, employees, representatives, and agents of the Sentinel Entities;
- The Insurance Policy, including without limitation any claims made on the Insurance Policy, and all related documents and agreements;
- The Purchase Agreement and all related documents and agreements;
- All assets actually or potentially transferred from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities, including without limitation the value of all such assets;

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- All documents and agreements relating to any accounts in which such assets are or have been transferred, deposited, or held;
- All documents and agreements reflecting any actual or potential transfer of assets from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities;
- All actual or potential interests that any Sentinel Entities have had or purport to have in Multi-Strat, including without limitation any redemption interests, partnership interests, or other economic interests; and
- All documents and agreements relating to any subsequent transfers by the Sentinel Entities of any assets received from the Debtors, the Funds, or any affiliated entities.

For the avoidance of doubt, the foregoing topics are not intended to be exhaustive; Ms. Irving must retain all documents and other materials that relate in any way to the subject matter of this Notice. The terms “related to” or “relating to” should be construed as broadly as possible, and any doubts concerning the potential relevance of a document should be resolved in favor of preservation.

For purposes of this Notice, the term “documents” should be construed broadly to encompass all manner of communication and information, whether or not in physical or electronic form, and shall have the broadest meaning allowable under the Federal Rules of Civil Procedure and Federal Rules of Bankruptcy Procedure. “Documents” expressly include, without limitation, all of the following:

- Hard copy documents, including without limitation writings (whether typed or printed, or in final or draft form), printouts, calendars, handwritten notes, notebooks, sketches, photographs, drawings, photographs, and other tangible objects; and
- Electronic files and electronically stored information (“ESI”), including without limitation emails and attachments, text messages, chat messages, instant messages, electronic calendars, schedules, social media content and communications, video or sound recordings, pictures, presentations (*e.g.*, PowerPoint), spreadsheets, PDFs, word processing documents, presentations, voicemails, diagrams, images, databases, servers, metadata, and other electronic information, whether stored or maintained on a laptop, desktop computer, hard drive, server, network, legacy system, flash drive, internal or external hard drive, shared drive, CD, CD-ROM, DVD, PDA, tablet, iPad, iPhone, smartphone, Blackberry, computer log, or other removable media or storage device.

Ms. Irving must take all steps necessary to preserve all physical and electronic documents and ESI in his possession, custody, or control that relate to the subject matter of this Notice, including without limitation ensuring that potentially relevant documents are preserved intact and are not destroyed, altered, modified, or deleted. In particular, Ms. Irving must immediately suspend any document retention/destruction policies, including any backup tape recycling policies, that could result in the destruction or deletion of any potentially relevant documents in his possession, custody, or control, and must retain all software, hardware, or other information

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required to access or view potentially relevant ESI. Failure to take such actions may subject Ms. Irving to sanctions.

This preservation demand is continuing in nature and requires Ms. Irving's preservation of potentially relevant documents and materials that come into his possession, custody, or control after the date of this Notice.

Please acknowledge receipt of this Notice and promptly confirm that Ms. Irving will comply with this preservation demand.

Sincerely,



Andrew B. Clubok
of LATHAM & WATKINS LLP

Andrew B. Clubok
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andrew.clubok@lw.com

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March 30, 2021

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Isaac Leventon
c/o Baker & McKenzie LLP
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Suite 1500
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Debra A. Dandeneau
452 Fifth Ave.
New York, NY 10018

Email: michelle.hartman@bakermckenzie.com
debra.dandeneau@bakermckenzie.com

Re: Preservation Demand in Connection with *In re Highland Capital Management, L.P.*, No. 19-34054-sgj11 (Bankr. N.D. Tex.) and Adversary Case

Dear Counsel:

We represent UBS Securities LLC and UBS AG London Branch (together, “UBS”), creditors of Highland Capital Management, L.P. (“HCMLP” or the “Debtor”) in the above-captioned Chapter 11 case (the “Bankruptcy Case”). We also represent UBS in connection with pending litigation in the Supreme Court of the State of New York against HCMLP, Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”), Highland Special Opportunities Holding Company (“SOHC,” and together with CDO Fund, the “Funds”), and Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat”), among other defendants, in a consolidated action captioned *UBS Securities LLC et al. v. Highland Capital Management, L.P. et al.*, No. 650097/2009 (N.Y. Sup. Ct.) (the “UBS Litigation”).

The purpose of this document preservation notice (this “Notice”) is to notify Mr. Leventon of his obligation to preserve documents and information relating in any way to the matters referenced herein. Please advise us immediately if you are not authorized to accept this Notice on behalf of Mr. Leventon and confirm to whom this Notice should be directed.

UBS will soon commence an adversary proceeding against the Debtor (the “Adversary Case”) in connection with the Bankruptcy Case. In the Adversary Case, UBS alleges that the

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Debtor, acting through and at the direction of Mr. Leventon and other current and/or former employees of HCMLP, fraudulently transferred hundreds of millions of dollars of assets (the “Transferred Assets”) away from the Funds and affiliated entities—in anticipation of a judgment that UBS obtained against the Funds in the UBS Litigation—to Sentinel Reinsurance, Ltd. (“Sentinel,” and together with its affiliates, the “Sentinel Entities”), a Cayman Islands entity that Mr. Dondero and Mr. Ellington owned and controlled.

UBS further alleges that certain of these assets were fraudulently transferred to Sentinel pursuant to a purported purchase agreement (the “Purchase Agreement”), dated as of August 7, 2017, purportedly to satisfy the premium on a legal liability insurance policy issued by Sentinel (the “Insurance Policy”), which policy was supposedly intended to insure the Funds against an adverse judgment in the UBS Litigation. Among the assets that were purportedly transferred to Sentinel are (i) a redemption interest in Multi-Strat (the “Sentinel Redemption”) and (ii) assets held by CDO Fund related to Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd., Eastland CLO Ltd., Grayson CLO Ltd., Valhalla CLO Ltd., and Governance Re, Ltd., including cash payments related to those assets (collectively, the “CDO Fund Assets”).

UBS will seek discovery from various parties and third parties in connection with the Adversary Case and any other legal actions that UBS may commence relating to the subject matter of this Notice, potentially including from Mr. Leventon. Mr. Leventon is receiving this preservation demand because we believe that Mr. Leventon has documents or other materials that relate to the matters referenced herein. Applicable law and the rules of discovery require the immediate preservation of all documents and electronically stored information in Mr. Leventon’s possession, custody, or control that relate in any way to these matters.

Pursuant to the Notice, UBS demands that Mr. Leventon retain all documents and other materials in his possession, custody, or control (including such documents and materials in the possession or custody of Mr. Leventon’s representatives, agents, employees, subsidiaries, or affiliates) that relate, directly or indirectly, to the subject matter of this Notice, including, *but not limited to*, any of the following:

- The Bankruptcy Case;
- The Adversary Case and any future claims or actions that UBS may bring against Mr. Leventon relating to the subject matter of this Notice;
- UBS or the UBS Litigation, including without limitation any actual or potential judgments entered therein;
- The Sentinel Entities, including without limitation Sentinel Reinsurance, Ltd., Sentinel Holdings, Ltd., and SS Holdings, Ltd., and all predecessors, successors, directors, officers, employees, representatives, and agents of the Sentinel Entities;
- The Insurance Policy, including without limitation any claims made on the Insurance Policy, and all related documents and agreements;

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- The Purchase Agreement and all related documents and agreements;
- All assets actually or potentially transferred from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities, including without limitation the value of all such assets;
- All documents and agreements relating to any accounts in which such assets are or have been transferred, deposited, or held;
- All documents and agreements reflecting any actual or potential transfer of assets from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities;
- All actual or potential interests that any Sentinel Entities have had or purport to have in Multi-Strat, including without limitation any redemption interests, partnership interests, or other economic interests; and
- All documents and agreements relating to any subsequent transfers by the Sentinel Entities of any assets received from the Debtors, the Funds, or any affiliated entities.

For the avoidance of doubt, the foregoing topics are not intended to be exhaustive; Mr. Leventon must retain all documents and other materials that relate in any way to the subject matter of this Notice. The terms “related to” or “relating to” should be construed as broadly as possible, and any doubts concerning the potential relevance of a document should be resolved in favor of preservation.

For purposes of this Notice, the term “documents” should be construed broadly to encompass all manner of communication and information, whether or not in physical or electronic form, and shall have the broadest meaning allowable under the Federal Rules of Civil Procedure and Federal Rules of Bankruptcy Procedure. “Documents” expressly include, without limitation, all of the following:

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- Electronic files and electronically stored information (“ESI”), including without limitation emails and attachments, text messages, chat messages, instant messages, electronic calendars, schedules, social media content and communications, video or sound recordings, pictures, presentations (*e.g.*, PowerPoint), spreadsheets, PDFs, word processing documents, presentations, voicemails, diagrams, images, databases, servers, metadata, and other electronic information, whether stored or maintained on a laptop, desktop computer, hard drive, server, network, legacy system, flash drive, internal or external hard drive, shared drive, CD, CD-ROM, DVD, PDA, tablet, iPad, iPhone, smartphone, Blackberry, computer log, or other removable media or storage device.

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Mr. Leventon must take all steps necessary to preserve all physical and electronic documents and ESI in his possession, custody, or control that relate to the subject matter of this Notice, including without limitation ensuring that potentially relevant documents are preserved intact and are not destroyed, altered, modified, or deleted. In particular, Mr. Leventon must immediately suspend any document retention/destruction policies, including any backup tape recycling policies, that could result in the destruction or deletion of any potentially relevant documents in his possession, custody, or control, and must retain all software, hardware, or other information required to access or view potentially relevant ESI. Failure to take such actions may subject Mr. Leventon to sanctions.

This preservation demand is continuing in nature and requires Mr. Leventon's preservation of potentially relevant documents and materials that come into his possession, custody, or control after the date of this Notice.

Please acknowledge receipt of this Notice and promptly confirm that Mr. Leventon will comply with this preservation demand.

Sincerely,



Andrew B. Clubok
of LATHAM & WATKINS LLP

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March 30, 2021

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Sentinel Reinsurance, Ltd.
Sentinel Re Holdings, Ltd.
SS Holdings, Ltd.

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Email: michelle.hartman@bakermckenzie.com
debra.dandeneau@bakermckenzie.com

Re: Preservation Demand in Connection with *In re Highland Capital Management, L.P.*, No. 19-34054-sgj11 (Bankr. N.D. Tex.) and Adversary Case

Dear Counsel:

We represent UBS Securities LLC and UBS AG London Branch (together, “UBS”), creditors of Highland Capital Management, L.P. (“HCMLP” or the “Debtor”) in the above-captioned Chapter 11 case (the “Bankruptcy Case”). We also represent UBS in connection with pending litigation in the Supreme Court of the State of New York against HCMLP, Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”), Highland Special Opportunities Holding Company (“SOHC,” and together with CDO Fund, the “Funds”), and Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat”), among other defendants, in a consolidated action captioned *UBS Securities LLC et al. v. Highland Capital Management, L.P. et al.*, No. 650097/2009 (N.Y. Sup. Ct.) (the “UBS Litigation”).

We provide this document preservation notice to you as counsel to Scott Byron Ellington, in his capacity as an owner and controller of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and SS Holdings, Ltd. (collectively, “Sentinel,” and together with its affiliates, the “Sentinel Entities”). The purpose of this document preservation notice (this “Notice”) is to notify Sentinel

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of its obligation to preserve documents and information relating in any way to the matters referenced herein. Please ensure, on behalf of Mr. Ellington, that this Notice is immediately provided to the directors and officers of Sentinel and advise us if this Notice should be distributed to any other individuals or entities with authority or control over Sentinel. To the extent that the Sentinel Entities are represented by counsel in connection with these matters, please advise us immediately so that we may communicate with such designated counsel regarding this Notice going forward.

UBS will soon commence an adversary proceeding against the Debtor (the “Adversary Case”) in connection with the Bankruptcy Case. In the Adversary Case, UBS alleges that the Debtor, acting through and at the direction of Mr. Ellington and other current and/or former employees of HCMLP, fraudulently transferred hundreds of millions of dollars of assets (the “Transferred Assets”) away from the Funds and affiliated entities—in anticipation of a judgment that UBS obtained against the Funds in the UBS Litigation—to Sentinel Reinsurance, Ltd., a Cayman Islands entity that Mr. Dondero and Mr. Ellington owned and controlled.

UBS further alleges that certain of these assets were fraudulently transferred to Sentinel pursuant to a purported purchase agreement (the “Purchase Agreement”), dated as of August 7, 2017, purportedly to satisfy the premium on a legal liability insurance policy issued by Sentinel (the “Insurance Policy”), which policy was supposedly intended to insure the Funds against an adverse judgment in the UBS Litigation. Among the assets that were purportedly transferred to Sentinel are (i) a redemption interest in Multi-Strat (the “Sentinel Redemption”) and (ii) assets held by CDO Fund related to Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd., Eastland CLO Ltd., Grayson CLO Ltd., Valhalla CLO Ltd., and Governance Re, Ltd., including cash payments related to those assets (collectively, the “CDO Fund Assets”).

UBS will seek discovery from various parties and third parties in connection with the Adversary Case and any other legal actions that UBS may commence relating to the subject matter of this Notice, potentially including from Sentinel. Sentinel is receiving this preservation demand because we believe that Sentinel has documents or other materials that relate to the matters referenced herein. Applicable law and the rules of discovery require the immediate preservation of all documents and electronically stored information in Sentinel’s possession, custody, or control that relate in any way to these matters.

Pursuant to the Notice, UBS demands that Sentinel retains all documents and other materials in its possession, custody, or control (including such documents and materials in the possession or custody of Sentinel’s representatives, agents, employees, or affiliates) that relate, directly or indirectly, to the subject matter of this Notice, including, *but not limited to*, any of the following:

- The Bankruptcy Case;
- The Adversary Case and any future claims or actions that UBS may bring against Sentinel relating to the subject matter of this Notice;

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- UBS or the UBS Litigation, including without limitation any actual or potential judgments entered therein;
- The Sentinel Entities, including without limitation Sentinel Reinsurance, Ltd., Sentinel Holdings, Ltd., and SS Holdings, Ltd., and all predecessors, successors, directors, officers, employees, representatives, and agents of the Sentinel Entities;
- The Insurance Policy, including without limitation any claims made on the Insurance Policy, and all related documents and agreements;
- The Purchase Agreement and all related documents and agreements;
- All assets actually or potentially transferred from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities, including without limitation the value of all such assets;
- All documents and agreements relating to any accounts in which such assets are or have been transferred, deposited, or held;
- All documents and agreements reflecting any actual or potential transfer of assets from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities;
- All actual or potential interests that any Sentinel Entities have had or purport to have in Multi-Strat, including without limitation any redemption interests, partnership interests, or other economic interests; and
- All documents and agreements relating to any subsequent transfers by the Sentinel Entities of any assets received from the Debtors, the Funds, or any affiliated entities.

For the avoidance of doubt, the foregoing topics are not intended to be exhaustive; Sentinel must retain all documents and other materials that relate in any way to the subject matter of this Notice. The terms “related to” or “relating to” should be construed as broadly as possible, and any doubts concerning the potential relevance of a document should be resolved in favor of preservation.

For purposes of this Notice, the term “documents” should be construed broadly to encompass all manner of communication and information, whether or not in physical or electronic form, and shall have the broadest meaning allowable under the Federal Rules of Civil Procedure and Federal Rules of Bankruptcy Procedure. “Documents” expressly include, without limitation, all of the following:

- Hard copy documents, including without limitation writings (whether typed or printed, or in final or draft form), printouts, calendars, handwritten notes, notebooks, sketches, photographs, drawings, photographs, and other tangible objects; and

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- Electronic files and electronically stored information (“ESI”), including without limitation emails and attachments, text messages, chat messages, instant messages, electronic calendars, schedules, social media content and communications, video or sound recordings, pictures, presentations (*e.g.*, PowerPoint), spreadsheets, PDFs, word processing documents, presentations, voicemails, diagrams, images, databases, servers, metadata, and other electronic information, whether stored or maintained on a laptop, desktop computer, hard drive, server, network, legacy system, flash drive, internal or external hard drive, shared drive, CD, CD-ROM, DVD, PDA, tablet, iPad, iPhone, smartphone, Blackberry, computer log, or other removable media or storage device. This also includes potentially relevant documents and information stored on products Sentinel does not own, such as the personal laptops or home computers of its employees or affiliates.

Sentinel must take all steps necessary to preserve all physical and electronic documents and ESI in its possession, custody, or control that relate to the subject matter of this Notice, including without limitation ensuring that potentially relevant documents are preserved intact and are not destroyed, altered, modified, or deleted. In particular, Sentinel must immediately suspend any document retention/destruction policies, including any backup tape recycling policies, that could result in the destruction or deletion of any potentially relevant documents in its possession, custody, or control, and must retain all software, hardware, or other information required to access or view potentially relevant ESI. Failure to take such actions may subject Sentinel to sanctions.

This preservation demand is continuing in nature and requires Sentinel’s preservation of potentially relevant documents and materials that come into its possession, custody, or control after the date of this Notice.

Please acknowledge receipt of this Notice and promptly confirm, on behalf of Mr. Ellington, that Sentinel will comply with this preservation demand.

Sincerely,



Andrew B. Clubok
of LATHAM & WATKINS LLP

Andrew B. Clubok
Direct Dial: 1.202.637.3323
andrew.clubok@lw.com

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March 30, 2021

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Jean Paul Sevilla
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Re: Preservation Demand in Connection with *In re Highland Capital Management, L.P.*, No. 19-34054-sgj11 (Bankr. N.D. Tex.) and Adversary Case

Dear Counsel:

We represent UBS Securities LLC and UBS AG London Branch (together, “UBS”), creditors of Highland Capital Management, L.P. (“HCMLP” or the “Debtor”) in the above-captioned Chapter 11 case (the “Bankruptcy Case”). We also represent UBS in connection with pending litigation in the Supreme Court of the State of New York against HCMLP, Highland CDO Opportunity Master Fund, L.P. (“CDO Fund”), Highland Special Opportunities Holding Company (“SOHC,” and together with CDO Fund, the “Funds”), and Highland Credit Opportunities CDO, L.P. (n/k/a Highland Multi Strategy Credit Fund, L.P.) (“Multi-Strat”), among other defendants, in a consolidated action captioned *UBS Securities LLC et al. v. Highland Capital Management, L.P. et al.*, No. 650097/2009 (N.Y. Sup. Ct.) (the “UBS Litigation”).

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The purpose of this document preservation notice (this “Notice”) is to notify Mr. Sevilla of his obligation to preserve documents and information relating in any way to the matters referenced herein. Please advise us immediately if you are not authorized to accept this Notice on behalf of Mr. Sevilla and confirm to whom this Notice should be directed.

UBS will soon commence an adversary proceeding against the Debtor (the “Adversary Case”) in connection with the Bankruptcy Case. In the Adversary Case, UBS alleges that the Debtor, acting through and at the direction of Mr. Sevilla and other current and/or former employees of HCMLP, fraudulently transferred hundreds of millions of dollars of assets (the “Transferred Assets”) away from the Funds and affiliated entities—in anticipation of a judgment that UBS obtained against the Funds in the UBS Litigation—to Sentinel Reinsurance, Ltd. (“Sentinel,” and together with its affiliates, the “Sentinel Entities”), a Cayman Islands entity that Mr. Dondero and Mr. Ellington owned and controlled.

UBS further alleges that certain of these assets were fraudulently transferred to Sentinel pursuant to a purported purchase agreement (the “Purchase Agreement”), dated as of August 7, 2017, purportedly to satisfy the premium on a legal liability insurance policy issued by Sentinel (the “Insurance Policy”), which policy was supposedly intended to insure the Funds against an adverse judgment in the UBS Litigation. Among the assets that were purportedly transferred to Sentinel are (i) a redemption interest in Multi-Strat (the “Sentinel Redemption”) and (ii) assets held by CDO Fund related to Greenbriar CLO Ltd., Greenbriar CLO Corp., Aberdeen Loan Funding Ltd., Eastland CLO Ltd., Grayson CLO Ltd., Valhalla CLO Ltd., and Governance Re, Ltd., including cash payments related to those assets (collectively, the “CDO Fund Assets”).

UBS will seek discovery from various parties and third parties in connection with the Adversary Case and any other legal actions that UBS may commence relating to the subject matter of this Notice, potentially including from Mr. Sevilla. Mr. Sevilla is receiving this preservation demand because we believe that Mr. Sevilla has documents or other materials that relate to the matters referenced herein. Applicable law and the rules of discovery require the immediate preservation of all documents and electronically stored information in Mr. Sevilla’s possession, custody, or control that relate in any way to these matters.

Pursuant to the Notice, UBS demands that Mr. Sevilla retain all documents and other materials in his possession, custody, or control (including such documents and materials in the possession or custody of Mr. Sevilla’s representatives, agents, employees, subsidiaries, or affiliates) that relate, directly or indirectly, to the subject matter of this Notice, including, *but not limited to*, any of the following:

- The Bankruptcy Case;
- The Adversary Case and any future claims or actions that UBS may bring relating to the subject matter of this Notice;
- UBS or the UBS Litigation, including without limitation any actual or potential judgments entered therein;

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- The Sentinel Entities, including without limitation Sentinel Reinsurance, Ltd., Sentinel Holdings, Ltd., and SS Holdings, Ltd., and all predecessors, successors, directors, officers, employees, representatives, and agents of the Sentinel Entities;
- The Insurance Policy, including without limitation any claims made on the Insurance Policy, and all related documents and agreements;
- The Purchase Agreement and all related documents and agreements;
- All assets actually or potentially transferred from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities, including without limitation the value of all such assets;
- All documents and agreements relating to any accounts in which such assets are or have been transferred, deposited, or held;
- All documents and agreements reflecting any actual or potential transfer of assets from the Debtors, the Funds, or any affiliated entities to the Sentinel Entities;
- All actual or potential interests that any Sentinel Entities have had or purport to have in Multi-Strat, including without limitation any redemption interests, partnership interests, or other economic interests; and
- All documents and agreements relating to any subsequent transfers by the Sentinel Entities of any assets received from the Debtors, the Funds, or any affiliated entities.

For the avoidance of doubt, the foregoing topics are not intended to be exhaustive; Mr. Sevilla must retain all documents and other materials that relate in any way to the subject matter of this Notice. The terms “related to” or “relating to” should be construed as broadly as possible, and any doubts concerning the potential relevance of a document should be resolved in favor of preservation.

For purposes of this Notice, the term “documents” should be construed broadly to encompass all manner of communication and information, whether or not in physical or electronic form, and shall have the broadest meaning allowable under the Federal Rules of Civil Procedure and Federal Rules of Bankruptcy Procedure. “Documents” expressly include, without limitation, all of the following:

- Hard copy documents, including without limitation writings (whether typed or printed, or in final or draft form), printouts, calendars, handwritten notes, notebooks, sketches, photographs, drawings, photographs, and other tangible objects; and
- Electronic files and electronically stored information (“ESI”), including without limitation emails and attachments, text messages, chat messages, instant messages, electronic calendars, schedules, social media content and communications, video or sound recordings, pictures, presentations (*e.g.*, PowerPoint), spreadsheets, PDFs, word

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processing documents, presentations, voicemails, diagrams, images, databases, servers, metadata, and other electronic information, whether stored or maintained on a laptop, desktop computer, hard drive, server, network, legacy system, flash drive, internal or external hard drive, shared drive, CD, CD-ROM, DVD, PDA, tablet, iPad, iPhone, smartphone, Blackberry, computer log, or other removable media or storage device.

Mr. Sevilla must take all steps necessary to preserve all physical and electronic documents and ESI in his possession, custody, or control that relate to the subject matter of this Notice, including without limitation ensuring that potentially relevant documents are preserved intact and are not destroyed, altered, modified, or deleted. In particular, Mr. Sevilla must immediately suspend any document retention/destruction policies, including any backup tape recycling policies, that could result in the destruction or deletion of any potentially relevant documents in his possession, custody, or control, and must retain all software, hardware, or other information required to access or view potentially relevant ESI. Failure to take such actions may subject Mr. Sevilla to sanctions.

This preservation demand is continuing in nature and requires Mr. Sevilla's preservation of potentially relevant documents and materials that come into his possession, custody, or control after the date of this Notice.

Please acknowledge receipt of this Notice and promptly confirm that Mr. Sevilla will comply with this preservation demand.

Sincerely,



Andrew B. Clubok
of LATHAM & WATKINS LLP

EXHIBIT 1

EXHIBIT
11

LATHAM & WATKINS LLP
Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
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BUTLER SNOW LLP
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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**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Scott Ellington** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
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Washington, District of Columbia 20004
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BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
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Dallas, Texas 75219
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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 foregoing *Notice of Subpoena* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.
Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Plaintiff

Chapter 11

v.
HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant

Adv. Proc. No. 21-03020-sgj

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: SCOTT ELLINGTON

(Name of person to whom the subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See ATTACHMENT A

PLACE *Butler Snow LLP 2911 Turtle Creek Blvd., Suite 1400 Dallas, Texas 75219	DATE AND TIME April 9, 2021 at 9:00 am CT
---	--

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
-------	---------------

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are: Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Scott Ellington and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals, notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda,

promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.

4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Isaac Leventon (“Leventon”), Matthew DiOrio (“DiOrio”), Jean Paul Sevilla (“Sevilla”), Mary Kathryn Irving (“Irving”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, Leventon, DiOrio, Sevilla, Irving, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

LATHAM & WATKINS LLP
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

BUTLER SNOW LLP
Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502

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

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Scott Ellington, in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 15, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Mr. Ellington agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
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Washington, District of Columbia 20004
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BUTLER SNOW LLP

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Candice Carson (TX Bar No. 24074006)
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Dallas, Texas 75219
Telephone: (469) 680-5502
Email: 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 foregoing *Notice of Deposition* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the “Insurance Policy”), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the “Purchase Agreement”), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.

7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.,
Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Plaintiff

Adv. Proc. No. 21-03020-sgj

v.
HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION
IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: SCOTT ELLINGTON
(Name of person to whom the subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

PLACE	DATE AND TIME
Remote, via Zoom or a similar online videoconferencing platform	April 15, 2021 at 9:00 am CT

The deposition will be recorded by this method:

Video and stenographic means

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day’s attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server’s signature

Printed name and title

Server’s address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 10

LATHAM & WATKINS LLP
Andrew Clubok (*pro hac vice*)
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Telephone: (213) 485-1234

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Scott Ellington** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
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candice.carson@butlersnow.com

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

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Chapter 11

v.
HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

Adv. Proc. No. 21-03020-sgj

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: SCOTT ELLINGTON

(Name of person to whom the subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See **ATTACHMENT A**

PLACE *Butler Snow LLP 2911 Turtle Creek Blvd., Suite 1400 Dallas, Texas 75219	DATE AND TIME April 20, 2021 at 9:00 am CT (or at a date and time mutually agreed upon)
---	---

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
-------	---------------

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party)

UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

UBSMTC144

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

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(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
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(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

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- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

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...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Scott Ellington and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals, notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda,

promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.

4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Isaac Leventon (“Leventon”), Matthew DiOrio (“DiOrio”), Jean Paul Sevilla (“Sevilla”), Mary Kathryn Irving (“Irving”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, Leventon, DiOrio, Sevilla, Irving, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

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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**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Scott Ellington, in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 27, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Mr. Ellington agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
Washington, District of Columbia 20004
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Email: andrew.clubok@lw.com
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Jeffrey E. Bjork (*pro hac vice*)
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355 South Grand Avenue, Suite 100
Los Angeles, California 90071
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BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
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Telephone: (469) 680-5502
Email: martin.sosland@butlersnow.com
candice.carson@butlersnow.com

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

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the “Insurance Policy”), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the “Purchase Agreement”), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.

7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.,
Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Plaintiff

Adv. Proc. No. 21-03020-sgj

v.
HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION
IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: SCOTT ELLINGTON
(Name of person to whom the subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

PLACE Remote, via Zoom or a similar online videoconferencing platform	DATE AND TIME April 27, 2021 at 9:00 am CT (or at a date and time mutually agreed upon)
--	---

The deposition will be recorded by this method:

Video and stenographic means

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 2

EXHIBIT
12

LATHAM & WATKINS LLP
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

BUTLER SNOW LLP
Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502

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

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Isaac Leventon** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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

Jeffrey E. Bjork (*pro hac vice*)
Kimberly A. Posin (*pro hac vice*)
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071
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kim.posin@lw.com

BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502
Email: 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 foregoing *Notice of Subpoena* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.
Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Plaintiff

Chapter 11

v.
HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant

Adv. Proc. No. 21-03020-sgj

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Isaac Leventon
(Name of person to whom the subpoena is directed)

[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See ATTACHMENT A

Table with 2 columns: PLACE (Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219) and DATE AND TIME (April 9, 2021 at 9:00 am CT)

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: PLACE and DATE AND TIME

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Isaac Leventon and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals, notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda,

promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.

4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Matthew DiOrio (“DiOrio”), Jean Paul Sevilla (“Sevilla”), Mary Kathryn Irving (“Irving”), Scott Ellington (“Ellington”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, DiOrio, Sevilla, Irving, Ellington, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

LATHAM & WATKINS LLP
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Sarah Tomkowiak (*pro hac vice*)
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Los Angeles, CA 90071
Telephone: (213) 485-1234

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Isaac Leventon, in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 16, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Mr. Leventon agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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Sarah Tomkowiak (*pro hac vice*)
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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 foregoing *Notice of Deposition* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the “Insurance Policy”), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the “Purchase Agreement”), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.
7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Isaac Leventon

(Name of person to whom the subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: PLACE (Remote, via Zoom or a similar online videoconferencing platform) and DATE AND TIME (April 16, 2021 at 9:00 am CT)

The deposition will be recorded by this method:

Video and stenographic means

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day’s attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server’s signature

Printed name and title

Server’s address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 11

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Sarah Tomkowiak (*pro hac vice*)
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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

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Isaac Leventon** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
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BUTLER SNOW LLP

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candice.carson@butlersnow.com

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

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Isaac Leventon

(Name of person to whom the subpoena is directed)

[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See ATTACHMENT A

Table with 2 columns: PLACE and DATE AND TIME. PLACE: *Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219. DATE AND TIME: April 20, 2021 at 9:00 am CT (or at a date and time mutually agreed upon)

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: PLACE and DATE AND TIME. Both cells are empty.

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Isaac Leventon and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals, notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda,

promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

- the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.
4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
 5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
 6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
 7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
 8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Matthew DiOrio (“DiOrio”), Jean Paul Sevilla (“Sevilla”), Mary Kathryn Irving (“Irving”), Scott Ellington (“Ellington”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, DiOrio, Sevilla, Irving, Ellington, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

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 Andrew Clubok (*pro hac vice*)
 Sarah Tomkowiak (*pro hac vice*)
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 Washington, District of Columbia 20004
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BUTLER SNOW LLP
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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**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Isaac Leventon, in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 27, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Mr. Leventon agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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candice.carson@butlersnow.com

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

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the “Insurance Policy”), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the “Purchase Agreement”), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.
7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.
Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Plaintiff

Adv. Proc. No. 21-03020-sgj

v.
HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION
IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Isaac Leventon

(Name of person to whom the subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

PLACE Remote, via Zoom or a similar online videoconferencing platform	DATE AND TIME April 27, 2021 at 9:00 am CT (or at a date and time mutually agreed upon)
--	---

The deposition will be recorded by this method:

Video and stenographic means

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

UBSMTC181

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day’s attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server’s signature

Printed name and title

Server’s address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 3

EXHIBIT
13

LATHAM & WATKINS LLP
Andrew Clubok (*pro hac vice*)
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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**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Matthew DiOrio** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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Sarah Tomkowiak (*pro hac vice*)
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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 foregoing *Notice of Subpoena* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.
Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Plaintiff

Chapter 11

v.
HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant

Adv. Proc. No. 21-03020-sgj

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Matthew DiOrio
(Name of person to whom the subpoena is directed)

[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See ATTACHMENT A

Table with 2 columns: PLACE (Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219) and DATE AND TIME (April 9, 2021 at 9:00 am CT)

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: PLACE and DATE AND TIME

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Matthew DiOrio and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals, notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda,

promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.

4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Isaac Leventon (“Leventon”), Jean Paul Sevilla (“Sevilla”), Mary Kathryn Irving (“Irving”), Scott Ellington (“Ellington”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, Leventon, Sevilla, Irving, Ellington, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

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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**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Matthew DiOrio, in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 15, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Mr. DiOrio agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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Sarah Tomkowiak (*pro hac vice*)
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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 foregoing *Notice of Deposition* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the “Insurance Policy”), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the “Purchase Agreement”), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.
7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Matthew DiOrio

(Name of person to whom the subpoena is directed)

[X] Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: PLACE (Remote, via Zoom or a similar online videoconferencing platform) and DATE AND TIME (April 15, 2021 at 9:00 am CT)

The deposition will be recorded by this method:

Video and stenographic means

[] Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day’s attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server’s signature

Printed name and title

Server’s address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 12

LATHAM & WATKINS LLP
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

BUTLER SNOW LLP
Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502

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

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Matthew DiOrio** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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

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BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502
Email: martin.sosland@butlersnow.com
candice.carson@butlersnow.com

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

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Chapter 11

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

Adv. Proc. No. 21-03020-sgj

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Matthew DiOrio

(Name of person to whom the subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See **ATTACHMENT A**

PLACE *Butler Snow LLP 2911 Turtle Creek Blvd., Suite 1400 Dallas, Texas 75219	DATE AND TIME April 20, 2021 at 9:00 am CT (or at a date and time to be mutually agreed upon)
---	---

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
-------	---------------

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

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UBSMTC188

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

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(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

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(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

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(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Matthew DiOrio and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals, notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda,

promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.

4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Isaac Leventon (“Leventon”), Jean Paul Sevilla (“Sevilla”), Mary Kathryn Irving (“Irving”), Scott Ellington (“Ellington”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, Leventon, Sevilla, Irving, Ellington, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

LATHAM & WATKINS LLP
 Andrew Clubok (*pro hac vice*)
 Sarah Tomkowiak (*pro hac vice*)
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 Telephone: (202) 637-2200

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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

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

**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.	§	
	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	
	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Matthew DiOrio, in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 27, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Mr. DiOrio agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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Sarah Tomkowiak (*pro hac vice*)
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BUTLER SNOW LLP

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

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the “Insurance Policy”), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the “Purchase Agreement”), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.
7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION
IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Matthew DiOrio

(Name of person to whom the subpoena is directed)

[X] Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

PLACE	DATE AND TIME
Remote, via Zoom or a similar online videoconferencing platform	April 27, 2021 at 9:00 am CT (or at a date and time to be mutually agreed upon)

The deposition will be recorded by this method:

Video and stenographic means

[] Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

/s/ Martin Sosland

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 4

EXHIBIT
14

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Sarah Tomkowiak (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
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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

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Jean Paul Sevilla** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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

Jeffrey E. Bjork (*pro hac vice*)
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kim.posin@lw.com

BUTLER SNOW LLP

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Telephone: (469) 680-5502
Email: 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 foregoing *Notice of Subpoena* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.
Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Plaintiff

Adv. Proc. No. 21-03020-sgj

v.
HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Jean Paul Sevilla
(Name of person to whom the subpoena is directed)

[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See ATTACHMENT A

PLACE *Butler Snow LLP 2911 Turtle Creek Blvd., Suite 1400 Dallas, Texas 75219	DATE AND TIME April 9, 2021 at 9:00 am CT
---	--

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
-------	---------------

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Jean Paul Sevilla and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals, notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda,

promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.

4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Isaac Leventon (“Leventon”), Matthew DiOrio (“DiOrio”), Mary Kathryn Irving (“Irving”), Scott Ellington (“Ellington”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, Leventon, DiOrio, Irving, Ellington, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

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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**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Jean Paul Sevilla, in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 14, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Mr. Sevilla agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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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 foregoing *Notice of Deposition* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the “Insurance Policy”), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the “Purchase Agreement”), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.
7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Jean Paul Sevilla

(Name of person to whom the subpoena is directed)

[X] Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: PLACE (Remote, via Zoom or a similar online videoconferencing platform) and DATE AND TIME (April 14, 2021 at 9:00 am CT)

The deposition will be recorded by this method:

Video and stenographic means

[] Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 13

LATHAM & WATKINS LLP
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Los Angeles, CA 90071
Telephone: (213) 485-1234

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Jean Paul Sevilla** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

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Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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Sarah Tomkowiak (*pro hac vice*)
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*Counsel for UBS Securities LLC and UBS
AG London Branch*

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Jean Paul Sevilla

(Name of person to whom the subpoena is directed)

[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See ATTACHMENT A

PLACE	*Butler Snow LLP 2911 Turtle Creek Blvd., Suite 1400 Dallas, Texas 75219	DATE AND TIME April 20, 2021 at 9:00 am CT (or at a date and time mutually agreed upon)
-------	--	---

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
-------	---------------

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

UBSMTC210

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Jean Paul Sevilla and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals, notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda,

promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

- the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.
4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
 5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
 6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
 7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
 8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Isaac Leventon (“Leventon”), Matthew DiOrio (“DiOrio”), Mary Kathryn Irving (“Irving”), Scott Ellington (“Ellington”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, Leventon, DiOrio, Irving, Ellington, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

LATHAM & WATKINS LLP
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

BUTLER SNOW LLP
Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502

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

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Jean Paul Sevilla, in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 27, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Mr. Sevilla agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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
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BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502
Email: martin.sosland@butlersnow.com
candice.carson@butlersnow.com

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

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the "Insurance Policy"), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the "Purchase Agreement"), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.
7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.
Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,
Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION
IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Jean Paul Sevilla

(Name of person to whom the subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

PLACE Remote, via Zoom or a similar online videoconferencing platform	DATE AND TIME April 27, 2021 at 9:00 am CT (or at a date and time mutually agreed upon)
--	---

The deposition will be recorded by this method:

Video and stenographic means

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 5

EXHIBIT
15

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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**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, "UBS") in the above-captioned adversary proceeding (the "Adversary Proceeding"), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the "Subpoena") on **Mary Kathryn Lucas (formerly Mary Kathryn Irving)** in connection with *Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. ("Highland" or the "Debtor") [Adv. Pro. Docket No. 4] (the "Motion").

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Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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Sarah Tomkowiak (*pro hac vice*)
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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 foregoing *Notice of Subpoena* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Mary Kathryn Lucas (formerly Mary Kathryn Irving)

(Name of person to whom the subpoena is directed)

[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See ATTACHMENT A

Table with 2 columns: PLACE and DATE AND TIME. PLACE: *Bulter Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219. DATE AND TIME: April 9, 2021 at 9:00 am CT

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: PLACE and DATE AND TIME. Both fields are currently empty.

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Mary Kathryn Lucas (formerly Mary Kathryn Irving) and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals,

notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda, promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.

4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Isaac Leventon (“Leventon”), Matthew DiOrio (“DiOrio”), Jean Paul Sevilla (“Sevilla”), Scott Ellington (“Ellington”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, Leventon, DiOrio, Sevilla, Ellington, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

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Telephone: (213) 485-1234

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Mary Kathryn Lucas (formerly Mary Kathryn Irving), in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 16, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Ms. Lucas agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 2, 2021

Respectfully submitted,

/s/ Andrew Clubok

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 foregoing *Notice of Deposition* was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically.

Dated: April 2, 2021.

/s/ Martin Sosland
Martin Sosland

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the “Insurance Policy”), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the “Purchase Agreement”), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.
7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

v.

Adv. Proc. No. 21-03020-sgj

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Mary Kathryn Lucas (formerly Mary Kathryn Irving)

(Name of person to whom the subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: PLACE (Remote, via Zoom or a similar online videoconferencing platform) and DATE AND TIME (April 16, 2021 at 9:00 am CT)

The deposition will be recorded by this method:

Video and stenographic means

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 2, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT 14

LATHAM & WATKINS LLP
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

BUTLER SNOW LLP
Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502

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

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

**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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure and Rule 9016 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), through their counsel, have served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection in a Bankruptcy Case or Adversary Proceeding (the “Subpoena”) on **Mary Kathryn Lucas (formerly Mary Kathryn Irving)** in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”).

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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

Jeffrey E. Bjork (*pro hac vice*)
Kimberly A. Posin (*pro hac vice*)
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071
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kim.posin@lw.com

BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502
Email: martin.sosland@butlersnow.com
candice.carson@butlersnow.com

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

UNITED STATES BANKRUPTCY COURT

NORTHERN

District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Mary Kathryn Lucas (formerly Mary Kathryn Irving)

(Name of person to whom the subpoena is directed)

[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See ATTACHMENT A

Table with 2 columns: PLACE and DATE AND TIME. PLACE: *Bulter Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219. DATE AND TIME: April 20, 2021 at 9:00 am CT (or at a date and time mutually agreed upon)

*In lieu of delivery of hard-copy documents, you may email the documents to Robert.Allen@lw.com, Andrew.Clubok@lw.com, and Candice.Carson@butlersnow.com.

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: PLACE and DATE AND TIME. Both fields are currently empty.

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. DEFINITIONS

The terms utilized herein shall have the meanings specified below. Each defined term shall have the meaning ascribed to it regardless of whether the term is capitalized. Any term referencing any business, legal, or governmental entity or association shall be deemed a reference to any and all of its predecessors, successors, affiliates, and subsidiaries, as well as any and all of its past or present officers, directors, partners, members, managers, employees, representatives, and agents.

Defined terms include the following:

1. “Communications” means the transmittal of information in all forms, including, without limitation, through meetings, in-person or telephone conversations, telegrams, facsimile or electronic mail transmissions, correspondence, letters, reports, memoranda, formal or informal statements, press releases, newspaper stories, records of conversations or messages, and similar modes. References to Communications with or by business entities shall be deemed to include all officers, directors, employees, personnel, agents, attorneys, accountants, consultants, independent contractors, or other representatives of such entities.
2. “You” or “Your” means Mary Kathryn Lucas (formerly Mary Kathryn Irving) and anyone acting on Your behalf.
3. “Documents” means all documents and materials, whether written, graphic, or otherwise, including all originals, identical or non-identical copies, drafts, working papers, reproductions, or recordings of any kind, or other data compilations from which information can be obtained or translated into reasonably usable form. Documents shall be construed broadly to encompass, without limitation, Communications, notations made regarding any Communications, books, records, ledgers, journals,

notebooks, calendars, minutes, agendas, notices, presentations, credit memoranda, promissory notes, sales slips, checks or cancelled checks, agreements, contracts, licenses, opinions, projections, spreadsheets, summaries, sworn or unsworn statements, recordings, drawings, photographs, computer data, or similar items, regardless of the form maintained.

4. “HCM” means Highland Capital Management, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HCM or such subsidiary’s behalf.
5. “Multi-Strat” means Highland Multi Strategy Credit Fund, L.P., formerly known as Highland Credit Opportunities CDO, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Multi-Strat or such subsidiary’s behalf.
6. “CDO Fund” means Highland CDO Opportunity Master Fund, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on CDO Fund or such subsidiary’s behalf.
7. “SOHC” means Highland Special Opportunities Holding Company, as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on SOHC or such subsidiary’s behalf.
8. “HFP” means Highland Financial Partners, L.P., as well as any subsidiary thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on HFP or such subsidiary’s behalf.

9. “Sentinel” means Sentinel Reinsurance, Ltd. and Sentinel Re Holdings, Ltd. as well as any subsidiary or affiliate thereof, and any of their attorneys, representatives, officers, directors, employees, consultants, advisors, affiliates, or anyone acting on Sentinel or such subsidiary or affiliate’s behalf.
10. “Insurance Policy” means that certain Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds.
11. “Purchase Agreement” means that certain Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers.
12. “Tax Memo” means that certain June 30, 2018 Memorandum entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets.”
13. “Legal Action” means the legal action identified in the Schedule to the Insurance Policy, *UBS Securities LLC and UBS AG, London Branch, v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland Financial Partners, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Credit Opportunities CDO, L.P., and Strand Advisors, Inc.*, Case No. 650097/2009.
14. As used herein, the terms “concerning,” “regarding,” and “relating to” mean all information, facts, or documents that directly, indirectly, or in any other way support, concern, negate, bear upon, touch upon, incorporate, affect, include, pertain to, or are otherwise connected with the subject matter about which the request is made.

II. INSTRUCTIONS

1. The terms used herein are to be given their most expansive and inclusive interpretation unless otherwise expressly limited herein. This includes, without limitation, the following:
 - a. construing “and” and “or” in the disjunctive or conjunctive as necessary to make a request more inclusive;
 - b. construing the singular form of a word to include the plural and vice versa;
 - c. construing the term “among” to mean between or among;
 - d. construing the term “any” to mean any, all, each, and every;
 - e. construing the masculine, feminine, or neutral pronouns to include other genders; and
 - f. construing the present tense of a verb to include its past tense and vice versa.
2. In response to these requests, produce all Documents in Your actual or constructive possession, custody, or control, or in the actual or constructive possession, custody, or control of any of Your representatives, agents, employees, accountants, attorneys, or affiliates.
3. If any Documents were formerly in Your possession, custody, or control and have been lost, destroyed, or otherwise disposed of, then furnish a list that identifies all such Documents and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) the date when the Documents were prepared or transmitted; and (d) the date when the Documents were lost, destroyed, or otherwise disposed of,

- the reasons for such destruction or disposition, and the persons requesting and performing the destruction or disposition.
4. For each Document withheld on the ground of any privilege or immunity, furnish a list that identifies each such Document and state for each such Document: (a) the nature (*e.g.*, letter, memorandum, etc.), size, and subject matter of the Documents; (b) the persons who prepared or authored the Documents, and, if applicable, the persons to whom the Documents were sent; (c) each person having a copy of the Documents and each person to whom a copy was sent or whom received a copy; (d) the date on which the Documents were prepared or transmitted; and (e) the nature of and basis for the privilege claimed.
 5. If any portion of a Document is responsive to these requests, produce the entirety of the Document. Likewise, if only part of a responsive Document is protected by privilege or immunity, produce the Document with only the privileged matter redacted.
 6. Produce all Documents as they are kept in the ordinary course of business, and when applicable, in the order they are found in a person's files. If Documents are kept in a file with a file label, produce a copy of that label together with the Documents, Communications, or other materials in the file.
 7. Produce all financial data in native format to the extent available. Produce all other Documents as PDFs with optical character recognition.
 8. Unless otherwise specified herein, the period covered by these requests is January 1, 2016 to the present.

III. DOCUMENTS TO BE PRODUCED

1. Communications between Sentinel, and any of HCM, CDO Fund, HFP, SOHC, Multi-Strat, James Dondero (“Dondero”), Isaac Leventon (“Leventon”), Matthew DiOrio (“DiOrio”), Jean Paul Sevilla (“Sevilla”), Scott Ellington (“Ellington”), or You.
2. Documents or Communications concerning the Insurance Policy, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Insurance Policy; (iii) claims made on the Insurance Policy; (iv) Communications with the IRS concerning the Insurance Policy; and (v) any similar agreements.
3. Documents or Communications concerning the Purchase Agreement, including without limitation (i) any amendment thereto; (ii) transfer of assets pursuant to the Purchase Agreement; (iii) board minutes or resolutions concerning the Purchase Agreement; (iv) Communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (v) any similar agreements.
4. Documents or Communications concerning the Tax Memo, including without limitation (i) any amendment thereto; (ii) board minutes or resolutions concerning the Tax Memo; (iii) documents relied on in preparing the Tax Memo; and (iv) any similar memoranda.
5. Documents or Communications sufficient to identify any assets transferred from HCM, CDO Fund, HFP, or SOHC to Sentinel, including without limitation all assets transferred pursuant to the Insurance Policy or Purchase Agreement, and information sufficient to identify the value of any such transferred assets.
6. Documents or Communications relating to any subsequent transfer or dissipation by Sentinel of any assets previously transferred from HCM, SOHC, HFP, or CDO Fund.

7. Documents or Communications sufficient to identify all accounts used to transfer or receive any assets transferred pursuant to the Insurance Policy or Purchase Agreement.
8. Documents or Communications concerning the value of any assets transferred pursuant to the Insurance Policy or Purchase Agreement, including without limitation those assets listed in Schedule A to the Purchase Agreement, from January 1, 2017 to the present, including documentation supporting the \$105,647,679 value of those assets as listed in the Tax Memo.
9. Documents showing the organizational structure of Sentinel and its affiliates, including information identifying the relationship between Sentinel and any of Dondero, Leventon, DiOrio, Sevilla, Ellington, or You.
10. Documents or Communications sufficient to determine the identities of Sentinel's directors and officers between January 1, 2016 and the present.
11. Documents or Communications from any time period concerning the formation or acquisition of Sentinel.
12. Documents or Communications between Sentinel and any person concerning the Legal Action.

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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**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) shall take the deposition of Mary Kathryn Lucas (formerly Mary Kathryn Irving), in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* against Highland Capital Management, L.P. (“Highland” or the “Debtor”) [Adv. Pro. Docket No. 4] (the “Motion”) and the subject matter set forth in **Attachment A**, on **April 27, 2021**, beginning at **9:00 a.m.** Central Time, or at such other day and time as counsel for UBS, counsel for the Debtor, and counsel for Ms. Lucas agree. The deposition will be taken remotely via an online platform due to the coronavirus pandemic such that no one will need to be in the same location as anyone else in order to participate in the deposition and by use of Interactive Realtime. Parties who wish to participate in the deposition should contact Andrew Clubok and Robert Allen, Latham & Watkins LLP, at andrew.clubok@lw.com and robert.allen@lw.com, **no fewer than 24 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

[Remainder of Page Intentionally Left Blank]

Dated: April 15, 2021

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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

ATTACHMENT A

1. The formation or acquisition of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
2. The organizational structure of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
3. The identities of the directors and officers of Sentinel Reinsurance, Ltd., Sentinel Re Holdings, Ltd., and their affiliates.
4. The Legal Liability Insurance Policy dated as of August 1, 2017 between Sentinel Reinsurance, Ltd. as Insurer and Highland CDO Opportunity Master Fund, LP, Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Insureds (the "Insurance Policy"), including without limitation (i) the purpose and terms of the Insurance Policy; (ii) any amendment thereto; (iii) board minutes or resolutions concerning the Insurance Policy; (iv) claims made on the Insurance Policy; (v) communications with the IRS concerning the Insurance Policy; and (vi) any similar agreements.
5. The Purchase Agreement dated as of August 7, 2017 between Sentinel Reinsurance, Ltd. as Purchaser and each of Highland CDO Opportunity Master Fund, L.P., Highland CDO Holding Company, and Highland Special Opportunities Holding Company as Sellers (the "Purchase Agreement"), including without limitation (i) the purpose and terms of the Purchase Agreement; (ii) any amendment thereto; (iii) the transfer of assets pursuant to the Purchase Agreement; (iv) board minutes or resolutions concerning the Purchase Agreement; (v) communications with the IRS regarding any assets transferred pursuant to the Purchase Agreement; and (vi) any similar agreements.

6. The Memorandum dated June 30, 2018 and entitled “Tax Consequences of Sentinel Acquisition of HFP/CDO Opportunity Assets” (the “Tax Memo”), including without limitation (i) the origin and purpose of the Tax Memo; (ii) any diligence conducted to support the Tax Memo and the \$105,647,679 value of assets listed in the Tax Memo; (iii) any amendment thereto; (iv) board minutes or resolutions concerning the Tax Memo; and (v) any similar memoranda.

7. Assets transferred from Highland Capital Management, L.P., Highland CDO Opportunity Master Fund, L.P., Highland Special Opportunities Holding Company, and/or Highland Financial Partners, L.P. to Sentinel Reinsurance, Ltd. and/or Sentinel Re Holdings, Ltd., including without limitation (i) the assets transferred pursuant to the Insurance Policy or Purchase Agreement; (ii) the value of any such transferred assets; (iii) any subsequent transfer or dissipation of such assets; (iv) the request to redeem the value of any such assets from Highland Multi Strategy Credit Fund, L.P., (f/k/a Highland Credit Opportunities CDO, L.P.); and (v) the accounts used to transfer or receive any such assets.

UNITED STATES BANKRUPTCY COURT

NORTHERN District of TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor

Case No. 19-34054-sgj11

(Complete if issued in an adversary proceeding)

Chapter 11

UBS SECURITIES LLC AND UBS AG LONDON BRANCH,

Plaintiff

Adv. Proc. No. 21-03020-sgj

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION
IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Mary Kathryn Lucas (formerly Mary Kathryn Irving)

(Name of person to whom the subpoena is directed)

[X] Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

PLACE Remote, via Zoom or a similar online videoconferencing platform	DATE AND TIME April 27, 2021 at 9:00 am CT (or at a date and time mutually agreed upon)
--	---

The deposition will be recorded by this method:

Video and stenographic means

[] Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: April 15, 2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Martin Sosland
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UBS Securities LLC and UBS AG London Branch, who issues or requests this subpoena, are:

Martin Sosland, Butler Snow LLP, 2911 Turtle Creek Blvd., Suite 1400, Dallas, Texas 75219, Telephone: (469) 680-5502, Email: martin.sosland@butlersnow.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

UBSMTC247

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Exhibit 16

Original Complaint for Injunctive Relief [Filed Under Seal]

EXHIBIT
17



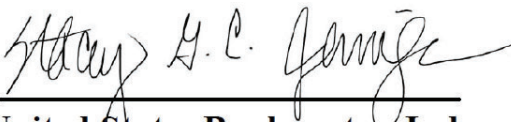
CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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 April 9, 2021


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.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. <u>21-03020-sgj</u>
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

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.

ORDER GRANTING PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER

Having considered *Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction* (the "Motion"), *Plaintiffs' Memorandum of Law in Support of Motion for a Temporary Restraining Order and Preliminary Injunction* (the "Memorandum of Law")², and the *Declaration of Sarah Tomkowiak in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction*, including the exhibits annexed thereto; 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. § 1409; and this Court having found that injunctive relief is warranted under section 105(a) of the Bankruptcy Code and 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 UBS's notice of the Motion was appropriate under the circumstances and that no other notice need be provided; and this Court having determined that the legal and factual bases set forth in the Motion and the Memorandum of Law establish good cause for the relief granted herein; and this Court taking note that the Debtor does not object to the relief sought herein; and after due deliberation and sufficient cause appearing therefor and for the reasons set forth in the record on this Motion, it is **HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.

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

2. The Debtor is temporarily enjoined and restrained from making or allowing funds under its management or control (including, but not limited to, Multi-Strat and CDO Fund) to make any payments or further transfers to Sentinel or any of its affiliates or any transferees of the Sentinel Entities consisting of, resulting from, or relating to the Transferred Assets until this Court's decision on UBS's requested preliminary injunction.

3. All objections to the Motion are overruled in their entirety.

4. The Court shall retain exclusive jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

END OF ORDER

Respectfully submitted,

/s/ Andrew Clubok

LATHAM & WATKINS LLP

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Sarah Tomkowiak (*pro hac vice*)
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*Counsel for UBS Securities LLC and UBS
AG London Branch*

EXHIBIT
18

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Ira D. Kharasch (CA Bar No. 109084) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 266326) (*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.	§	
UBS SECURITIES LLC and UBS AG LONDON BRANCH,	§	
	§	Adversary Proceeding No.
Plaintiffs,	§	
	§	21-03020-sgj
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.		

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.

**STIPULATION EXTENDING DEADLINE
FOR DEBTOR TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT**

Highland Capital Management, L.P. (the “Debtor”), the debtor and debtor-in-possession in the above-captioned bankruptcy case and defendant in the above-captioned adversary proceeding (the “Adversary Proceeding”), and UBS Securities LLC and UBS AG London Branch (together, “UBS”, and collectively with the Debtor, the “Parties”), plaintiffs in the Adversary Proceeding, enter into this stipulation (the “Stipulation”) extending the deadline for the Debtor to answer or otherwise respond to UBS’s *Original Complaint for Injunctive Relief* [Docket No. 3] (as may be subsequently amended or supplemented, the “Complaint”) filed in the Adversary Proceeding.

Recitals

WHEREAS, on March 31, 2021, UBS filed the Complaint under seal commencing the Adversary Proceeding;

WHEREAS, on April 1, 2021, UBS served the Complaint and summons on the Debtor;

WHEREAS the original deadline for the Debtor to answer or otherwise respond to the Complaint was May 3, 2021 (the “Answer Deadline”); and

WHEREAS the Parties reached an agreement extending the Answer Deadline by which the Debtor must answer or otherwise respond to the Complaint.

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

1. The Answer Deadline by which the Debtor must answer or otherwise respond to the Complaint shall be extended through and including **Wednesday, June 2, 2021**.

Dated May 3, 2021.

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No.143717)
Ira D. Kharasch (CA Bar No. 109084)
John A. Morris (NY Bar No. 266326)
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-and-

HAYWARD PLLC

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Counsel for the Debtor and Debtor-in-Possession

-and-

LATHAM & WATKINS LLP

/s/ Kathryn K. George

Andrew Clubok (*pro hac vice*)

Sarah Tomkowiak (*pro hac vice*)

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-and-

BUTLER SNOW LLP

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EXHIBIT
19



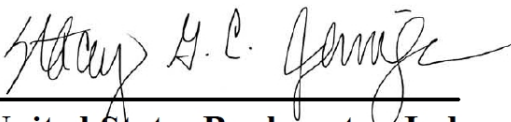
CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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 May 5, 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	§	Chapter 11
Debtor.	§	Case No. 19-34054-sgj11
UBS SECURITIES LLC and UBS AG LONDON BRANCH,	§	
Plaintiffs,	§	Adversary Proceeding No.
vs.	§	21-03020-sgj
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Defendant.	§	

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.

**ORDER APPROVING STIPULATION EXTENDING DEADLINE
FOR DEBTOR TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT**

Upon consideration of the *Stipulation Extending Deadline for Debtor to Answer or Otherwise Respond to Complaint* [Docket No. 52] (the “Stipulation”)² by and between Highland Capital Management, L.P. (the “Debtor”), the debtor and debtor-in-possession in the above-captioned bankruptcy case and defendant in the above-captioned adversary proceeding (the “Adversary Proceeding”), and UBS Securities LLC and UBS AG London Branch (together, “UBS”, and collectively with the Debtor, the “Parties”), plaintiffs in the Adversary Proceeding, it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.
2. The Stipulation shall become effective immediately upon entry of this Order.
3. The Answer Deadline by which the Debtor must answer or otherwise respond to the Complaint shall be extended through and including **Wednesday, June 2, 2021**.
4. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation and this Order.

End of Order

² Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Stipulation.

EXHIBIT A

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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**

<p>In re:</p>	§	
	§	Chapter 11
<p>HIGHLAND CAPITAL MANAGEMENT, L.P.,¹</p>	§	
<p>Debtor.</p>	§	Case No. 19-34054-sgj11
<p>UBS SECURITIES LLC and UBS AG LONDON BRANCH,</p>	§	
<p>Plaintiffs,</p>	§	Adversary Proceeding No.
<p>vs.</p>	§	21-03020-sgj
<p>HIGHLAND CAPITAL MANAGEMENT, L.P.,</p>	§	
<p>Defendant.</p>	§	

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.

**STIPULATION EXTENDING DEADLINE
FOR DEBTOR TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT**

Highland Capital Management, L.P. (the “Debtor”), the debtor and debtor-in-possession in the above-captioned bankruptcy case and defendant in the above-captioned adversary proceeding (the “Adversary Proceeding”), and UBS Securities LLC and UBS AG London Branch (together, “UBS”, and collectively with the Debtor, the “Parties”), plaintiffs in the Adversary Proceeding, enter into this stipulation (the “Stipulation”) extending the deadline for the Debtor to answer or otherwise respond to UBS’s *Original Complaint for Injunctive Relief* [Docket No. 3] (as may be subsequently amended or supplemented, the “Complaint”) filed in the Adversary Proceeding.

Recitals

WHEREAS, on March 31, 2021, UBS filed the Complaint under seal commencing the Adversary Proceeding;

WHEREAS, on April 1, 2021, UBS served the Complaint and summons on the Debtor;

WHEREAS the original deadline for the Debtor to answer or otherwise respond to the Complaint was May 3, 2021 (the “Answer Deadline”); and

WHEREAS the Parties reached an agreement extending the Answer Deadline by which the Debtor must answer or otherwise respond to the Complaint.

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

1. The Answer Deadline by which the Debtor must answer or otherwise respond to the Complaint shall be extended through and including **Wednesday, June 2, 2021**.

Dated May 3, 2021.

PACHULSKI STANG ZIEHL & JONES LLP

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

EXHIBIT

20

**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.	§	
	§	
UBS SECURITIES LLC AND UBS AG LONDON BRANCH,	§	Adversary Proceeding
	§	
Plaintiffs,	§	No. 21-03020
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	
	§	

STIPULATION AND PROPOSED SCHEDULING ORDER

This stipulation (the “Stipulation”) is made and entered into by and between Plaintiffs UBS Securities LLC and UBS AG London Branch (together, “UBS”) and Defendant Highland Capital Management, L.P. (the “Debtor,” and together with UBS, the “Parties”), by and through their respective undersigned counsel.

RECITALS

WHEREAS, on October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Delaware Court”);

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.

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case (the "Bankruptcy Case") to this Court;

WHEREAS, on March 31, 2021, UBS commenced the above-captioned adversary proceeding (the "Adversary Case") against the Debtor by filing its complaint [Adv. Dkt. No. 3] (the "Complaint");

WHEREAS, on April 1, 2021, the Court issued the *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Adv. Dkt. No. 9] (the "Alternative Scheduling Order");

WHEREAS, on May 5, 2021, the Court entered the *Order Approving Stipulation Extending Deadline for Debtor to Answer or Otherwise Respond to Complaint* [Adv. Dkt. No. 53], setting June 2, 2021 as the deadline for the Debtor to answer or otherwise respond to the Complaint;

WHEREAS, the Parties have conferred and desire to enter into a mutually agreeable proposed schedule, as specifically set forth below.

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

1. The Parties agree to the following schedule (the "Proposed Joint Scheduling Order"), in lieu of that provided in the Alternative Scheduling Order:

<i>Proposed Joint Scheduling Order</i>		
	<u>Event</u>	<u>Deadline</u>
1	Debtor's Answer or Response	June 2, 2021
2	Service of Written Discovery Requests	June 4, 2021
3	Service of Written Responses to Discovery	June 18, 2021
4	Completion of Fact Discovery	June 25, 2021
5	Expert Disclosures	July 16, 2021
6	Completion of Expert Discovery	August 16, 2021
7	Dispositive Motions	August 23, 2021

8	Exhibit and Witness Lists	September 20, 2021
9	Joint Pretrial Order	September 27, 2021
10	Proposed Findings of Fact and Conclusions of Law	September 27, 2021
11	Trial Docket Call	October 4, 2021 at 1:30 p.m. (CT)
12	Trial Week Begins	October 17, 2021

2. If approved by the Court, the Proposed Joint Scheduling Order shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

3. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation, subject to any objection to the Court's jurisdiction or core jurisdiction and subject to any motion for the withdrawal of the reference, with respect to which all parties reserve their rights, if any.

[Remainder of this page intentionally left blank.]

Dated: May 14, 2021

Respectfully submitted,

By /s/ Kathryn George

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

By /s/ John A. Morris

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

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that this *Stipulation and Proposed Scheduling Order* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: May 14, 2021

/s/ Martin Sosland

EXHIBIT
21

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Counsel for Highland Capital Management, L.P.

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

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-SGJ11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020-sgj
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	
-----	§	

DEFENDANT’S ANSWER TO COMPLAINT

The above-captioned debtor and debtor-in-possession (the “Debtor” or “Highland”), the defendant in the above-captioned adversary proceeding, as and for its answer to the complaint (the “Complaint”) of UBS Securities LLC and UBS AG London Branch (collectively, “UBS”), alleges upon knowledge with respect to itself and upon information and belief as to all other matters as follows.

1. Admits the allegations of the third sentence of paragraph 1 of the Complaint, denies knowledge or information sufficient to form a belief as to the truth of the allegations of the first, second, and fourth sentences of paragraph 1 of the Complaint.

2. Admits the allegations of the first sentence of paragraph 2 of the Complaint and so much of the second sentence of paragraph 2 of the Complaint that alleges that in March 2017, the N.Y. State Court denied motions for summary judgment filed by Highland and the Funds, and denies the remaining allegations of paragraph 2 of the Complaint.

3. Admits so much of the allegations of the first sentence of paragraph 3 of the Complaint as alleges that the Independent Board informed UBS that it recently discovered that, at least as of August 2017, Highland transferred assets to Sentinel, and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the first sentence of paragraph 1 of the Complaint. Admits the allegations in the second sentence of paragraph 3 of the Complaint.

4. Admits, upon information and belief, so much of the first sentence of paragraph 4 as alleges that Highland and the Funds, acting through Dondero, Ellington, Leventon, Sevilla, DiOrio, and other Highland employees, transferred assets pursuant to a so-called Purchase Agreement, purportedly to satisfy a \$25,000,000 premium on a \$100,000,000 legal-liability insurance policy issued by Sentinel. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of the second sentence of paragraph 4 of the Complaint, and

respectfully refers to the Insurance Policy for the true and correct terms thereof. Denies the allegations of the second sentence of paragraph 4 of the Complaint except admits that the Debtor did not disclose the Insurance Policy to UBS until it became aware of the existence of same in or about early February 2021. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of the third and fourth sentences of paragraph 4 of the Complaint and avers that its investigation of the relevant facts and circumstances is ongoing.

5. Admits the allegations of the first and second sentences of paragraph 5 of the Complaint and denies knowledge or information sufficient to form a belief as to the truth of the allegations of the third, fourth, and fifth sentences of paragraph 5 of the Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Complaint, except admits that UBS commenced this instant adversary proceeding, and respectfully refers the Court to the Complaint and UBS's motion for injunctive relief for the true and correct contents thereof.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of paragraph 7 of the Complaint, except admits, upon information and belief, that the Sentinel Redemption and the CDO Fund Assets were among the assets transferred to Sentinel. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of the second sentence of paragraph 7 of the Complaint, except admits that a settlement with Multi-Strat was entered into with UBS in May 2020 and respectfully refers the Court to the settlement agreement for the true and correct terms thereof. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of the third, fourth, and fifth sentences of paragraph 7 of the Complaint.

8. Paragraph 8 states a conclusion of law as to which no response is required.

9. Paragraph 9 states a conclusion of law as to which no response is required.

10. Paragraph 10 states a conclusion of law as to which no response is required.
11. Paragraph 11 states a conclusion of law as to which no response is required.
12. Admits the allegations contained in paragraph 12 of the Complaint.
13. Admits the allegations contained in paragraph 13 of the Complaint.
14. Admits the allegations contained in paragraph 14 of the Complaint.
15. Admits the allegations contained in paragraph 15 of the Complaint.
16. Admits the allegations contained in paragraph 16 of the Complaint.
17. Admits the allegations contained in paragraph 17 of the Complaint.
18. Admits the allegations contained in paragraph 18 of the Complaint.
19. Admits the allegations contained in paragraph 19 of the Complaint.
20. Admits the allegations contained in paragraph 20 of the Complaint.
21. Admits the allegations contained in paragraph 21 of the Complaint.
22. Denies the allegations contained in the first three sentences of paragraph 22 of the Complaint, except admits that UBS filed the UBS Litigation in February 2009 and a second action against Highland and amended its complaint in the UBS Litigation, and respectively refers the Court to the pleadings filed by UBS for the true and correct terms thereof. Admits the allegations contained in the fourth sentence of paragraph 22 of the Complaint.
23. Admits the allegations contained in paragraph 23 of the Complaint.
24. Admits the allegations contained in paragraph 24 of the Complaint.
25. Denies the allegations contained in the first, second, third, and fourth sentences of paragraph 25 of the Complaint, except admits that, on or about June 26, 2020, UBS filed proofs of claim, and respectively refers the Court to the proofs of claim for the true and correct contents thereof. Denies knowledge or information sufficient to form a belief as to the allegations contained in the fifth sentence of paragraph 25 of the Complaint.

26. Admits the allegations contained in paragraph 26 of the Complaint.

27. Admits the allegations contained in paragraph 27 of the Complaint.

28. Denies the allegations contained in paragraph 28 of the Complaint, except admits in reliance upon information provided by then in-house counsel to the Independent Board and outside counsel advised UBS that the Funds and HFP had assets worth about \$10 million, that other assets had been disbursed in the past including to pay legal expenses associated with the UBS Litigation, and that Multi-Strat's economic ownership was held predominantly by former third-party limited partners.

29. Denies the allegations contained in the first three sentences of paragraph 29 of the Complaint, except admits that after a hearing to address both the Debtor's partial summary judgment motion and UBS's 3018 Motion, the Court rendered rulings thereon and respectfully refers the Court to the Court's orders disposing of such motions and the transcript of the proceedings for the true and correct contents thereof, and denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in the fourth sentence of paragraph 29 of the Complaint, except admits that the Debtor's former employees and agents withheld relevant factual information evidence from the Independent Board and the Debtor's outside counsel, including by lying to them about these matters.

30. Admits the allegations contained in paragraph 30 of the Complaint.

31. Denies the allegations contained in paragraph 31 of the Complaint, except admits that documents shared by the Independent Board with UBS evidenced the purported sale of the Transferred Assets to Sentinel and refers the Court to such documents for the true and correct contents thereof.

32. Admits, upon information and belief, the allegations contained in the first sentence of paragraph 32 of the Complaint and denies knowledge or information sufficient to form a belief

as to the truth of the allegations contained in the second sentence of paragraph 32 and refers the Court to the Insurance Policy for the true and correct terms thereof.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the Complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph 34 of the Complaint, except admits, upon information and belief, that Dondero, Ellington, Leventon, Sevilla, and DiOrio were involved in the alleged Fraudulent Transfers and that DiOrio was one of three directors of Sentinel when the Complaint was filed.

35. Denies the allegations contained in the first sentence of paragraph 35 of the Complaint and avers that the Debtor informed UBS of the existence of the Insurance Policy, the Purchase Agreement, and the Transferred Assets promptly upon discovering their existence. Admits the allegations contained in the second sentence of paragraph 35 of the Complaint. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the third sentence of paragraph 35 of the Complaint, except admits that the Independent Board uncovered documentation about the alleged Fraudulent Transfers which it supplied to UBS. Admits the allegations contained in the fourth sentence of paragraph 35 of the Complaint.

36. Admits the allegations contained in paragraph 36 of the Complaint and avers that the Independent Board's investigation of the relevant facts is ongoing.

37. Denies the allegations contained in paragraph 37 of the Complaint, except admits that after the relevant facts regarding the Transferred Assets came to light, UBS continued to work with the Debtor on the Settlement, and the parties reached agreement on revised terms set forth in a definitive Settlement Agreement that was presented to the Bankruptcy Court and approved at the conclusion of a hearing held on May 21, 2021.

38. Denies the allegations contained in paragraph 38 of the Complaint and respectfully refers the Court to the definitive Settlement Agreement for the true and correct terms thereof.

39. Paragraph 39 of the Complaint states conclusions of law as to which no response is required.

40. Admits, upon information and belief, the allegations contained in the first and second sentences of paragraph 40 of the Complaint and denies the third sentence of paragraph 40 to the extent it alleges that the Debtor directly owns 100% of Multi-Strat's general partner. The fourth sentence states a conclusion of law as to which no response is required.

41. Admits the allegations contained in paragraph 41 of the Complaint.

42. Admits the allegations contained in the first sentence of paragraph 42 and denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second sentence of paragraph 42. The third and fourth sentences of paragraph 42 state legal conclusions as to which no response is required.

43. In response to paragraph 43 of the Complaint, repeats and realleges its responses to paragraphs 1 through 42 as though fully set forth herein.

44. Admits the allegations contained in paragraph 44 of the Complaint.

45. Paragraph 45 of the Complaint states a conclusion of law as to which no response is required.

46. Paragraph 46 of the Complaint states a conclusion of law as to which no response is required.

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 47 of the Complaint.

48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first sentence of paragraph 48 of the Complaint. Admits the allegations

contained in the third sentence of paragraph 48 to the extent they refer to a request for a temporary or preliminary injunction.

49. Paragraph 49 of the Complaint states conclusions of law as to which no response is required.

50. Paragraph 50 of the Complaint states a conclusion of law as to which no response is required.

51. In response to paragraph 51 of the Complaint, admits that UBS has requested preliminary and permanent injunctive relief and respectfully refers the Court to UBS's pleadings for the true and correct contents thereof.

[Remainder of Page Intentionally Blank]

Dated: June 2, 2021

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-and-

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Counsel for the Defendant



ROSS & SMITH, PC

Complex Bankruptcy, Corporate and Mediation

EXHIBIT
22

May 10, 2021

By Electronic Mail

Highland Capital Management, LP
c/o Pachulski Stang Ziehl & Jones LLP
Jeff Pomerantz via jpomerantz@pszjlaw.com
John Morris via jmorris@pszjlaw.com
Greg Demo via gdemo@pszjlaw.com;

Hayward LLP
Melissa Hayward mhayward@haywardfirm.com
Zach Annable zannable@haywardfirm.com

Dear Counsel:

I write on behalf of Scott Ellington, Isaac Leventon, John Paul Sevilla, Matthew DiOrio and Mary Kathryn Lucas (né Irving) (collectively, our “Clients”) to you as counsel for Highland Capital Management, L.P. (the “Debtor”) with respect to the above-captioned proceeding (the “Adversary Proceeding”).

As the Debtor certainly is aware, UBS Securities LLC and UBS AG London Branch (collectively, “UBS”) have issued subpoenas to our Clients purportedly seeking evidence in support of UBS’s request for a preliminary injunction against the Debtor. *See* Adversary Proceeding Dkt. 21 at ¶3. Based on the Debtor’s non-opposition to the TRO entered at Dkt. 21, as well as the proposed settlement agreement between the Debtor and UBS that was filed in the chapter 11 case, it appears that the Debtor may not oppose the relief sought by UBS in the Adversary Proceeding. Given that our Clients are non-parties to the Adversary Proceeding, it only is fair that prior to burdening them with discovery response obligations, we understand the purported need for such discovery. Therefore, please advise us no later than May 12, 2021 of the following:

- Whether the Debtor intends to oppose entry of a preliminary injunction in the Adversary Proceeding;
- Whether the Debtor intends to oppose any of the other relief sought by UBS in the Adversary Proceeding;
- Any disputed issues that would remain in the Adversary Proceeding, assuming approval of the Settlement Agreement by the Bankruptcy Code.

I look forward to your response.

Best regards,

/s/ Frances A. Smith
Frances A. Smith

EXHIBIT 23

EXHIBIT
23

From: Clubok, Andrew (DC)
Sent: Thursday, May 20, 2021 10:44 AM
To: Eric Soderlund; George, Katie (CH); Tomkowiak, Sarah (DC); Allen, Robert (CC)
Cc: Frances A. Smith; Judith Ross
Subject: RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

The Court asked for preview of things to come – she just admonished Dondero’s counsel for not doing that (and you heard her). Accordingly, I plan to give her the heads up of the motion. You all now have notice I will be doing that. Two of you were on the hearing until moments ago. Please return; if you do not, I will report this effort to get you to rejoin the call to the court as need be.

Furthermore, please answer the question that Katie posed re your good faith basis, if any, for the statement she referenced.

From: Eric Soderlund <Eric.Soderlund@judithwross.com>
Sent: Thursday, May 20, 2021 11:41 AM
To: Clubok, Andrew (DC) <Andrew.Clubok@lw.com>; George, Katie (CH) <kathryn.george@lw.com>; Tomkowiak, Sarah (DC) <Sarah.Tomkowiak@lw.com>; Allen, Robert (CC) <Robert.Allen@lw.com>
Cc: Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>; Eric Soderlund <Eric.Soderlund@judithwross.com>
Subject: RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Andy,

I am surprised and disappointed that you would improperly try to “preview” a motion you have not even filed at a hearing you haven’t noticed.

Doing so would constitute an improper ex parte communication with the Court.

If you want a hearing on your motion to compel, you should follow the applicable procedural rules.

Eric Soderlund

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Dallas, TX 75201

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From: Andrew.Clubok@lw.com <Andrew.Clubok@lw.com>
Sent: Thursday, May 20, 2021 10:33 AM
To: Eric Soderlund <Eric.Soderlund@judithwross.com>; kathryn.george@lw.com; Sarah.Tomkowiak@lw.com; Robert.Allen@lw.com
Cc: Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>
Subject: RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Eric and Frances:

I saw that you were both on the hearing, although I think you both just dropped. I'm going to preview our emergency motion to compel at the end of this dispute that the Court is now hearing. I invite either or both of you (or one of your colleagues) to return to the hearing.

In the meantime, we would also appreciate a (non-sarcastic) response to Katie's question below.

Thanks
Andy

From: Clubok, Andrew (DC)
Sent: Thursday, May 20, 2021 11:05 AM
To: 'Eric Soderlund' <Eric.Soderlund@judithwross.com>; George, Katie (CH) <Kathryn.George@lw.com>; Tomkowiak, Sarah (DC) <Sarah.Tomkowiak@lw.com>; Allen, Robert (CC) <Robert.Allen@lw.com>
Cc: Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>
Subject: RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Eric:

I am surprised and disappointed by your sarcastic response to Katie's request for the good faith basis for a statement you made in a pleading. As she noted, the only support you cited was to a document that does not support the statement in question. Simply put: what is the good faith basis for your statement?

I can see you're listening to the "emergency" hearing now on discovery that does not directly involve your clients. I hope that means you can immediately respond to this question.

Thanks
Andy

From: Eric Soderlund <Eric.Soderlund@judithwross.com>
Sent: Wednesday, May 19, 2021 6:58 PM
To: George, Katie (CH) <kathryn.george@lw.com>; Clubok, Andrew (DC) <Andrew.Clubok@lw.com>; Tomkowiak, Sarah (DC) <Sarah.Tomkowiak@lw.com>; Allen, Robert (CC) <Robert.Allen@lw.com>
Cc: Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>; Eric Soderlund

<Eric.Soderlund@judithwross.com>

Subject: RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

I don't recall agreeing to be deposed by you, Katie.

From: kathryn.george@lw.com <kathryn.george@lw.com>

Sent: Wednesday, May 19, 2021 5:52 PM

To: Eric Soderlund <Eric.Soderlund@judithwross.com>; Andrew.Clubok@lw.com; Sarah.Tomkowiak@lw.com; Robert.Allen@lw.com

Cc: Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>

Subject: RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Eric,

As we have stated previously, we disagree with your characterization and will be seeking an emergency hearing.

You also did not answer my question regarding your assertion that the Debtor allegedly provided UBS with "an apparently privileged report that included interviews with the Debtor's employees and in-house counsel." Mot. ¶ 25. What exactly are you referring to here? You cite Case No. 19-34054, Dkt. 2199 at ¶ 10 in support, which makes no mention of any privileged report or interviews.

Katie

From: Eric Soderlund <Eric.Soderlund@judithwross.com>

Sent: Wednesday, May 19, 2021 5:46 PM

To: George, Katie (CH) <kathryn.george@lw.com>; Clubok, Andrew (DC) <Andrew.Clubok@lw.com>; Tomkowiak, Sarah (DC) <Sarah.Tomkowiak@lw.com>; Allen, Robert (CC) <Robert.Allen@lw.com>

Cc: Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>; Eric Soderlund <Eric.Soderlund@judithwross.com>

Subject: RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Katie,

We are opposed to the motion to compel and, since there is no "emergency," we will oppose any effort to obtain an emergency or expedited hearing on it. Since the issues in the motion to compel and in our motion to quash largely overlap, we would not oppose your motion to compel being heard along with our motion to quash, which the Court has set for July 29, 2021 at 2:30 p.m. Central time.

Eric Soderlund

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From: kathryn.george@lw.com <kathryn.george@lw.com>
Sent: Wednesday, May 19, 2021 5:00 PM
To: Eric Soderlund <Eric.Soderlund@judithwross.com>; Andrew.Clubok@lw.com; Sarah.Tomkowiak@lw.com; Robert.Allen@lw.com
Cc: Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>
Subject: RE: Highland Adversary 21-03020: Motion to Quash Subpoenas

Eric,

We plan to file a motion to compel your clients (aside from Ms. Lucas) to comply with the Subpoenas immediately and to compel Ms. Lucas to comply with the Subpoenas when she is no longer disabled. We also plan to file a related motion for an emergency hearing to ask the Court hear our motion to compel as soon as she can. Let us know if you oppose these two motions.

In addition, you argue in the motion to quash that the Debtor provided UBS with “an apparently privileged report that included interviews with the Debtor’s employees and in-house counsel.” Mot. ¶ 25. What exactly are you referring to here? You cite Case No. 19-34054, Dkt. 2199 at ¶ 10 in support, which makes no mention of any privileged report or interviews.

Katie

From: Eric Soderlund <Eric.Soderlund@judithwross.com>
Sent: Saturday, May 15, 2021 6:04 PM
To: Clubok, Andrew (DC) <Andrew.Clubok@lw.com>; Tomkowiak, Sarah (DC) <Sarah.Tomkowiak@lw.com>; George, Katie (CH) <kathryn.george@lw.com>; Allen, Robert (CC) <Robert.Allen@lw.com>
Cc: Frances A. Smith <Frances.Smith@judithwross.com>; Judith Ross <Judith.Ross@judithwross.com>; Eric Soderlund <Eric.Soderlund@judithwross.com>
Subject: Highland Adversary 21-03020: Motion to Quash Subpoenas

Counsel,

As discussed on our meet-and-confer on May 12, we promised to get back to you before Monday regarding the subpoenas UBS has served on our clients. For the reasons articulated in the attached, we will be seeking Court relief in the form of an order quashing the subpoenas. Accordingly, we will be filing the attached motion to quash, to which we assume UBS is opposed.

Regards,

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Mobile: 214-215-3492
Fax: 214-377-9409

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1 APPEARANCES, cont'd.:

2 For James Dondero,
3 Movant:

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7 For the Debtor:

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10 For the Official Committee
11 of Unsecured Creditors:

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13 For the U.S. Trustee:

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24

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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 DALLAS, TEXAS - APRIL 28, 2021 - 1:34 P.M.

2 THE COURT: We have a setting in Highland. Actually,
3 UBS versus Highland, Adversary 21-3020. Let's get appearances
4 first. I'll start with the Plaintiff, UBS. Do we have Mr.
5 Clubok and your team appearing today?

6 MR. CLUBOK: Good afternoon, Your Honor. Andrew
7 Clubok from Latham & Watkins on behalf of UBS. And I'm joined
8 with -- I'm joined by Kathryn George, also with Latham &
9 Watkins, will be arguing today's motions.

10 MS. GEORGE: Good morning, Your Honor.

11 THE COURT: Okay. I heard Ms. George, and did you
12 say someone else?

13 MR. CLUBOK: Just Kathryn George.

14 THE COURT: Oh, Kathryn George? All right. Thank
15 you.

16 All right. For the Defendant, Highland, do we have an
17 appearance today?

18 MR. MORRIS: Yes, Your Honor, it's -- good afternoon.
19 It's John Morris from Pachulski Stang Ziehl & Jones. With me
20 is my colleague Gregory Demo. And we're here today on behalf
21 of the Debtor, although I'm not sure that these motions are
22 directed towards us *per se*.

23 THE COURT: Okay. Thank you.

24 All right. Now, the Movant on a couple of these motions,
25 Mr. Dondero. Mr. Taylor, are you appearing for Mr. Dondero

1 today?

2 MR. TAYLOR: Yes, Your Honor. Clay Taylor, Will
3 Howell, and John Bonds appearing on behalf of Mr. Dondero.
4 And I'll be handling the arguments today.

5 THE COURT: All right. Thank you. I know we'll
6 likely have some observers out there. I'll ask, does the
7 Committee -- do you want to appear today? I know you've made
8 a notice of appearance in the adversary.

9 MR. CLEMENTE: Good afternoon, Your Honor. Matt
10 Clemente; Sidley Austin; on behalf of the Committee.

11 THE COURT: All right. Thank you. I'll just ask:
12 Anyone else have a dying urge to make an appearance? Again, I
13 know we have lots of observers.

14 MS. LAMBERT: Lisa Lambert with the United States
15 Trustee.

16 THE COURT: All right. Thank you, Ms. Lambert.
17 Anyone else?

18 All right. Well, as far as who goes first here, we have
19 two motions of Mr. Dondero, a motion for protective order and
20 a motion to modify the Court's sealing order in this
21 adversary. Those were filed before the UBS request to
22 authorize alternative service methods for a subpoena on Mr.
23 Dondero. So I'll let Mr. Taylor go first, since your motions
24 are first in time. You may proceed.

25 MR. TAYLOR: Thank you, Your Honor. Just as

1 housekeeping matters, we had actually had a conference with
2 UBS last night and what we had talked about is actually me
3 going first because we thought that might be how Your Honor
4 ruled, and she did before we even got there.

5 But what we have also decided, in an attempt to streamline
6 this process and be as efficient as possible, is what we would
7 propose -- we think -- I believe UBS obviously can speak for
8 themselves -- believe these motions are all interrelated. And
9 we think it makes the most sense to argue all three of these
10 together, and then allow UBS time to argue their case and then
11 do rebuttals, as necessary.

12 We've also agreed that this -- other than the documentary
13 evidence before the Court -- both parties filed a witness and
14 exhibit list out of an abundance of caution, but we would like
15 the Court to admit into evidence each of the parties' exhibits
16 that they have filed with their witness and exhibit list, but
17 there's no need for any live testimony. We believe the Court
18 can decide on the papers, the arguments, and the documentary
19 evidence before it.

20 So we would move for admission of both our exhibits and
21 theirs as a preliminary matter, Your Honor.

22 THE COURT: All right. Mr. Clubok, you confirm this
23 is your agreement? (Pause.) You must be on mute.

24 MR. CLUBOK: Your Honor, yes, that is the agreement,
25 although I was on mute because Ms. George is going to handle

1 the rest of the hearing.

2 THE COURT: Oh, okay.

3 MR. CLUBOK: So I'll let her --

4 THE COURT: Ms. George, sorry about that. All right.
5 So I got confirmation that is the agreement. So, for the
6 record, all of the exhibits -- let's see, UBS's look like
7 they're at Docket Entry No. 30 and 37, and Mr. Dondero's look
8 like they appear at Docket 34 -- all of those are admitted
9 into evidence.

10 (UBS Securities, LLC's exhibits at Docket Entries 30 and
11 37 are received into evidence. James Dondero's exhibits at
12 Docket Entry 34 are received into evidence.)

13 THE COURT: All right. Mr. Taylor?

14 MR. TAYLOR: Thank you, Your Honor. May it please
15 the Court. For the record, Clay Taylor appearing on behalf of
16 James Dondero.

17 As Your Honor is aware, we're here on three different
18 motions. The first is Mr. Dondero's motion for a protective
19 order. The second is a motion for a modification of the order
20 sealing this adversary proceeding. And the third is the
21 Debtor's motion for -- authorizing alternative service.

22 We believe, at the outset, Your Honor, that you should
23 grant the first two motions, for the protective order and
24 modify the sealing order, and that the motion for alternative
25 service, based upon the arguments and the rulings likely to be

1 made by this Court on the first two motions, should be denied
2 as moot.

3 I'll attempt to take these motions up in order. They are,
4 of course, interrelated, but I'll try to address each of them
5 separately.

6 The first is the motion for protective order. This motion
7 deals with some fundamental due process rights. I hate to
8 repeat the timeline and what is already stated in our papers,
9 but I do believe the timeline is important, so I'm going to go
10 over a couple of dates with Your Honor.

11 On March 29th, there was a motion to file this complaint
12 under seal. The same day, the Debtor filed essentially what
13 is a "me, too" motion. It is clear, upon review of subsequent
14 events, that the "Plaintiff" and the "Defendant" are acting in
15 concert.

16 On March 31st, the Court granted the motion to file the
17 action under seal. That was just two days after they had
18 filed the motion. We're not sure, Your Honor, but I believe
19 that was probably done without a hearing or notice because
20 both parties agreed.

21 The very next day, on April 1st, the complaint was filed.

22 Meantime, in the meantime and in the background, UBS, on
23 March 30th, sent to Mr. Dondero via me a litigation hold
24 letter. The Debtor, the very next day, sent a very similar
25 letter, a litigation hold letter, to Mr. Dondero through me.

1 It appears, although we are not sure because we have not
2 seen it, that these litigation hold letters may relate to this
3 suit.

4 On April 1st, the very -- the very same day that this suit
5 was filed, subpoenas were issued to my client. And they were
6 sent to me and they asked me to accept service. They asked me
7 to accept service for these subpoenas on a suit that I've
8 never seen. They asked for documents from my client to be
9 produced eight days later. And they asked for him to sit on
10 April 16th for his deposition on a suit on which he still to
11 this day has not seen.

12 I'm going to obviously go ahead and argue the motion, Your
13 Honor, but to be frank, just the recitation of those above
14 facts, to me, at least, make this abundantly clear how
15 unreasonable the subpoenas both were back in the past and
16 still are today.

17 What are the rules regarding discovery? Well, generally
18 speaking, Your Honor, in an adversary proceeding, discovery
19 can't be issued before a Rule 26(f) conference is held. Of
20 course, when we filed this motion, we were completely unaware
21 of whether a Rule 26(f) conference had been held, because, of
22 course, we weren't a party. But you can bring a motion to
23 bring discovery and issue discovery early, prior to the Rule
24 26(f) conference being held, but a motion must be filed with
25 the Court to authorize such issuance.

1 Here, upon my examination of the docket, I am unaware of
2 any such motion having been filed. Again, we're not a party
3 to this suit, I don't get all the ECF notices, but I am
4 unaware of any such motion having been filed, nor granted.

5 Even if such a motion is filed, the earliest that any
6 party could issue and serve discovery is 21 days after the
7 suit had been initiated and service perfected. Of course, 21
8 days is -- is a pretty special date, and there's a reason why
9 they picked 21 days. Well, that's when responsive pleadings
10 are due. You can't have parties have to respond to discovery
11 before the parties have even appeared in the case.

12 THE COURT: I know you're going to get to this, but
13 Mr. Dondero is not a party.

14 MR. TAYLOR: That is one hundred percent correct,
15 Your Honor. He's not a party. However, the rules for
16 discovery as to nonparties is exactly the same. And there is
17 no -- there is no provision for short-circuiting discovery
18 rules in an adversary proceeding as to a nonparty.

19 Now, I think what the other side will argue is, well, this
20 is a contested matter under Rule 9014, and therefore we can
21 issue discovery. And quite frankly, Your Honor -- and they'll
22 cite to another adversary proceeding filed underneath this
23 lead bankruptcy case where a motion for protective order was
24 indeed filed by Mr. Dondero. It was regarding the injunction
25 proceeding. It was filed on December 28th. The Debtor in

1 that case filed a response that same day. And the next day, I
2 believe without notice and a hearing, the Court denied that
3 motion for protective order in part, granted it in part.
4 There was no rationale given in the order, which was largely
5 constructed, I believe, from an email that this Court had
6 directed to the parties. But that is not a finding that 9014
7 should -- and therefore not applying Rule 26(f) is binding
8 authority on this Court or any other.

9 And Your Honor, to the extent that they make that
10 argument, we can find no case law in support. In fact, we
11 find it to the contrary, that when an adversary proceeding is
12 initiated, the due process rights that are implicated are
13 important and should not be abrogated. A contested matter is
14 a -- much looser rules of construction in how discovery can be
15 -- I'm sorry, did you say something, Your Honor?

16 THE COURT: Well, I was about to. I apologize for
17 interrupting, but I think --

18 MR. TAYLOR: No, go ahead.

19 THE COURT: I think all the lawyers hopefully know I
20 tend to err on the side of being pragmatic. And here is what
21 I'm about to ask you in that spirit. It feels like we're
22 going through a lot of brain damage to kind of argue about
23 whether an early 34 request applies to a nonparty and whether
24 Rule 34 applies in a contested matter, is this a contested
25 matter, or should it be considered an adversary? You know, we

1 could argue for a long time about that, and you all have, in
2 the pleadings, argued quite a bit.

3 But I'm looking at the docket, and the summons and
4 complaint it shows were served on the party, Highland, let's
5 see, this was filed April 5th, and it shows service occurred
6 on April 1st. So, assuming Rule -- the early Rule 34
7 provision of Rule 26 applies here, we're now at more than 21
8 days after summons. Now, I know you say -- okay. If this
9 rules applies like you say, April 22nd, I guess, would have
10 been the very first day that the subpoenas could have been
11 served on Mr. Dondero.

12 MR. TAYLOR: Correct. Had a Rule --

13 THE COURT: We're at April 28th now. I mean, why are
14 we arguing about this, is what I'm asking, from a pragmatic
15 standpoint.

16 MR. TAYLOR: Well, Your Honor brings up an
17 interesting point. First of all, let me state that to the
18 extent early discovery had been requested, then, yes, it would
19 be April 22nd. But no such motion was brought, first of all.

20 Second of all, and this is -- this is what to me is a
21 little bit mind-boggling, Your Honor. It is -- we think it
22 appears to be clear that the ultimate target of this
23 litigation is other than the Defendant. The Defendant and the
24 Plaintiff have a motion before this Court in the main
25 bankruptcy case to settle all the claims amongst themselves.

1 And so the Defendant is not truly a target defendant here.
2 What is being done is a true assault on fundamental due
3 process rights of third parties. There's not a plaintiff-
4 versus-defendant that are adversarial to each other. Instead,
5 they are acting in concert to try to get some sort of material
6 from my client to prove their ultimate case against him. And
7 what -- are they going to try to implead him in this case, if
8 we don't intervene as a matter of right? I don't know. Are
9 they going to try to use some sort of finding made in this
10 Court, in this friendly litigation, to then go use that
11 finding in a subsequent proceeding? Again, I don't know. But
12 the fact that we are apparently some sort of a target of this
13 litigation, and being asked to sit for depositions and produce
14 documents for it, but they won't show us the complaint, to me
15 is just -- it truly blows my mind that --

16 THE COURT: So, what we're really, really focusing on
17 today is the sealing motion, right? I mean, I guess that's
18 what I felt like coming in. This is all getting to whether
19 this thing should be unsealed. Because we're more than 21
20 days --

21 MR. TAYLOR: Correct.

22 THE COURT: -- out. You know, it seems like --

23 MR. TAYLOR: I totally agree that --

24 THE COURT: -- your motion is kind of now not moot,
25 but, you know, it has less of a punch to it now that we're

1 farther out.

2 And the alternative service motion of UBS seems like it's
3 going to be a no-brainer if they really convince me that Mr.
4 Dondero -- you know, service was attempted on him 31 times and
5 he somehow was always unavailable. What we're really going to
6 fight about today is the sealing aspect of this adversary; --

7 MR. TAYLOR: Well, --

8 THE COURT: -- yes or no?

9 MR. TAYLOR: I one hundred percent agree, but the
10 sealing then flows to the motion for protective order. To ask
11 my client to produce documents when he hasn't seen the very
12 complaint about which he seems to be the target, and whether
13 he then gets a chance or should be -- move to intervene as a
14 matter of right or as a matter of discretion, before he has a
15 chance to review that, make an informed decision about that,
16 in my mind, and we believe the case law supports, that a third
17 party's rights should not be prejudiced and he shouldn't have
18 to produce discovery that could potentially be used against
19 him, sit for depositions that could potentially be used
20 against him. The timing is just still off until we see what
21 we're talking about and have a true, legitimate chance, which,
22 generally speaking, would be 21 days after it is served, and
23 in my mind that equates to after it is unsealed. At that
24 point, maybe then discovery is appropriate. But it's just not
25 at this point.

1 They've attempted to use a secret court filing. That is
2 just anathema to everything that our public system of justice
3 stands for, is to have secret proceedings. Proceedings are
4 supposed to be true and open. If there's highly secret and
5 confidential information, generally, they are filed and --
6 under seal and redacted, just those sensitive confidential
7 information.

8 And apparently whatever is sensitive and confidential has
9 something to do with my client and transactions that he may
10 have done and they say that were wrongful. Well, if he
11 already has knowledge about them, what's the sensitive
12 confidential information that we're discussing? Again, I
13 don't know because I haven't seen the complaint.

14 So, I agree with Your Honor. The motion to seal does kind
15 of -- it's the driver here. But then that feeds into the
16 relief that we think that this Court should afford itself,
17 should afford us, after the unsealing.

18 As far as the alternative service, I was not authorized to
19 accept service. And why would I, for a suit that we don't
20 know anything about? And, you know, they tried to serve him.
21 Yeah, he was unavailable. But they shouldn't have been trying
22 to serve him anyway with this discovery about this secret star
23 chamber-like suit.

24 And so I hate to be so forthright about it, but it just
25 truly shocks the conscience a little bit, that that is what is

1 trying to be done here.

2 THE COURT: You know, I will say I tend to agree with
3 most of what you're saying. I am a judge who likes
4 transparency. I don't like to seal things. But let me play
5 devil's advocate. You all have a pretty good clue what the
6 lawsuit is about. I mean, you can tell from the publicly-
7 available docket that it's seeking injunctive relief. And if
8 I understood --

9 MR. TAYLOR: We don't know against whom, though, Your
10 Honor.

11 THE COURT: And if I understood what I read
12 correctly, preservation notices were sent that looked pretty
13 detailed as far as what was going on here.

14 So, you know, I think this kind of cuts both ways. It
15 cuts into your argument. It's probably going to cut into Mr.
16 -- or I keep wanting to say Mr. Clubok. I'm sorry.

17 MR. CLUBOK: Ms. George, Your Honor.

18 THE COURT: Ms. George. It probably cuts into her
19 argument, too.

20 I mean, it feels like the cat's out of the bag here. I
21 cannot believe that you and your client really have no clue
22 what this is about. And given that, I'm really not sure why
23 we need to seal it. But just if you can respond to that. Is
24 it a little disingenuous to say you have no idea what this
25 lawsuit is about? Your client has no idea?

1 MR. TAYLOR: So, again, timing is important here,
2 Your Honor. When we were served with the subpoenas, that was
3 April 1st. The motion to settle with UBS, which made these
4 allegations that \$300 million had been denuded from the estate
5 and sent somewhere else, that hadn't been filed. We really
6 have no idea. There's some sort of injunctive relief that has
7 been sought and may be granted in this case. I'm not really
8 sure.

9 THE COURT: It's -- the order is --

10 MR. TAYLOR: I don't know who the injunction is
11 against.

12 THE COURT: The order is right there on the docket,
13 right? Isn't the order -- the order is not under seal, is it?

14 MR. TAYLOR: Your Honor, the TRO is not, Your Honor.

15 THE COURT: Uh-huh.

16 MR. TAYLOR: The injunction that they're asking for,
17 I mean, I'm not sure why they have to enjoin a friendly
18 defendant. They can't enjoin anybody else who's not a party.
19 So, again, I'm not exactly sure why the injunctive relief was
20 necessary or sought. And I think it was probably just to get
21 expedited discovery going to then try to issue it to my
22 client.

23 But, so we have some idea what it's about. But, again,
24 what does this Court look for, and when we go to trial, what's
25 the active pleading? Well, it's the Plaintiffs' complaint

1 right up until the joint pretrial order, which lays everything
2 back out. I mean, that's the guts of what lawyers have to
3 rely upon, so we've got to be able to see it.

4 Sure, do I have a decent idea now, after the UBS
5 settlement motion has been filed and the litigation hold
6 letters came up? Were we able to kind of piece it together?
7 Sure. But should we have to try to piece together what's in a
8 lawsuit that alleges, apparently, \$300 million worth of
9 damages or somewhere thereabouts? We shouldn't have to be
10 guessing.

11 These are serious allegations. They should be taken
12 seriously. We should be able to see what that -- that lawsuit
13 is about if we're going to be asked to produce discovery about
14 it.

15 So, yes, I get your -- but at the same time, when these
16 subpoenas were first issued and we started kind of drafting up
17 -- as we started piecing stuff together, we filed our motion
18 for protective order the day after the UBS settlement motion
19 was filed. And so we had already kind of prepared that, and
20 we were still trying to evaluate that UBS settlement motion,
21 exactly what they were saying.

22 So, but again, why should -- why are we searching around
23 in the dark for something? It's not something we should have
24 to do. That's why there are due process requirements.

25 Did that answer Your Honor's question?

1 THE COURT: Well, it does. And what about this? I
2 seem to recall, in UBS's pleading, response to this, they said
3 they did offer to show your client the lawsuit, but they
4 wanted your client to agree not to share it beyond, you know,
5 himself and you, and his lawyers. And that was a no go. Tell
6 me about that.

7 MR. TAYLOR: Sure. First of all, I was surprised to
8 see those communications come about. Those clearly were
9 settlement communications. But be what it may, I'm happy to
10 address them.

11 I think if Your Honor turns back in the prior emails, when
12 we first made the suggestion that we were thinking about
13 opposing and moving for a protective order, I said, but let me
14 see the suit. And Mr. Pomerantz or Mr. -- and Mr. Morris's
15 firm said, no, but really what you -- who you need to ask is
16 the Plaintiff, UBS. And so I went to Mr. Clubok, I said, can
17 we see them? And the answer was no.

18 It was only after we filed the motion for protective order
19 that they came back and said, you know what, we'll let you see
20 them, but you can only share it with Mr. Dondero and his
21 counsel, which, okay, that -- that's a step in the right
22 direction. But I don't know what this lawsuit says, but I --
23 we have a decent idea. My guess is it implicates rights of
24 third parties. It also might implicate rights of affiliate
25 entities. Mr. Dondero may or may not -- we're still

1 investigating the factual background and the way the legal
2 framework exists -- he may owe fiduciary duties to those third
3 parties.

4 And for him to have an essential gag order because he
5 can't share it with any other affiliate or third parties to
6 which he has fiduciary duties that, hey, these allegations are
7 being made, this may implicate your rights, you need to
8 evaluate and take appropriate action on that entity's behalf,
9 that, quite frankly, handcuffs him to a degree which is, we
10 believe, impermissible, Your Honor.

11 THE COURT: You don't think a court order shields him
12 from accusations of breach of fiduciary duty?

13 MR. TAYLOR: No, Your Honor, I don't. I think he has
14 to protect very hard those fiduciary duties, and he must, if
15 appropriate, ask Your Honor and point out that this puts him
16 in an untenable position.

17 And to the extent that that court order is issued, we --
18 we obviously would have to get there later if that's where --
19 the way it were to come about. But I think he would have to
20 consider appealing that, because that really does put him in
21 an untenable position. I'm not trying to be overly
22 argumentative or saying that, you know, we must have our way
23 or we will appeal, but I truly do believe that that could put
24 him in such a position that he would have no choice but to at
25 least pursue that. Otherwise, open himself up to liability to

1 third parties.

2 THE COURT: Okay.

3 MR. TAYLOR: So, Your Honor, I think, with your
4 questions -- I mean, I've got eight more pages of notes here.
5 But I think our back-and-forth between you and I have pretty
6 much established what our positions are. Unless Your Honor
7 has any more questions for me at this point, I'm happy to
8 yield the floor.

9 THE COURT: All right. Thank you, Mr. Taylor.

10 All right. Ms. George, I'll hear from you.

11 MS. GEORGE: Thank you, Your Honor. Can you hear me
12 all right?

13 THE COURT: I can. Uh-huh.

14 MS. GEORGE: Great. Thank you, Your Honor.

15 You, in your back-and-forth with Mr. Taylor, you covered
16 many of the points I was going to raise. I don't want to take
17 the Court's time in repeating those.

18 I will just briefly cover the fact that we did offer Mr.
19 Taylor to share the complaint with Mr. Dondero, as long as he
20 kept it confidential and not share it with anyone else. That
21 offer was not accepted. So we really think that belies the
22 assertion in his papers that the reason he needs to see the
23 sealed pleadings is to determine if his interests are
24 implicated.

25 The TRO order, which, as Your Honor correctly pointed out,

1 is public, states that the Debtor is enjoined from making
2 payments or transfers that were a part of the fraudulent
3 transfers to Sentinel, an entity that Mr. Dondero has a
4 majority ownership in. We would submit that that is more than
5 enough information to determine if his interests are
6 "implicated" and if he needs to move to intervene. We take no
7 stance on whether intervention is correct, but we think that's
8 more than enough.

9 And the fact that we offered to show him the allegations,
10 as long as he kept it confidential, and that wouldn't work for
11 him, really goes to our fears that Mr. Dondero is looking to
12 find this complaint to further conspire with other parties and
13 possibly hurt UBS further and move these assets further or
14 dissipate them that are the subject of these fraudulent
15 transfers.

16 Your Honor, Mr. Dondero's motion seeks to not only unseal
17 the complaint but also the TRO motion and the exhibits
18 underlying that motion. And as Your Honor is aware, those
19 exhibits include documents that Mr. Dondero is not copied on,
20 communications with former Debtor employees that Mr. Dondero
21 is not copied on. And we have real concern with him gaining
22 access to those and causing further issues pursuant to this
23 fraud.

24 I'm happy, Your Honor, to go over the various procedural
25 arguments. We don't think that the Federal Rules have

1 anything to do with due process rights of third parties. And
2 Your Honor correctly pointed out that these are -- all of the
3 rules go to parties, and Mr. Dondero is not a party. And we
4 agree that, had -- if he did see the complaint, the seal --
5 the sealing order from this Court would protect any supposed
6 fiduciary duty that he claims, although that seems pretty
7 unavailing.

8 We have met all of the applicable rules here. And as Your
9 Honor pointed out, even if Rule 26(b)(2) did apply, which we
10 don't believe it does here, it's been more than 21 days. His
11 arguments are moot. He's evaded service now for almost a
12 month. There's -- and there's really no argument that an
13 expedited timeline at this point isn't appropriate. His
14 counsel, at the very least, has had these subpoenas for a full
15 month.

16 So, asking that he produce documents within seven days and
17 sit for a deposition within seven days we feel is more than
18 adequate. And it's in line with the discovery that Your Honor
19 allowed in the adversary proceeding between the Debtor and Mr.
20 Dondero, which sought documents in five days over the
21 Christmas holiday. And Mr. Dondero filed a very substantially
22 similar motion there, and the Court denied it. And we believe
23 that that should be done here as well.

24 We -- I'm happy to cover any questions that you would
25 like, Your Honor, but we believe that the motion for

1 alternative service should be granted and that both of Mr.
2 Dondero's motions should be denied.

3 THE COURT: All right. A couple of follow-ups. I
4 think I used the expression, it seems like the cat is out of
5 the bag to me because of the litigation hold letters and the
6 TRO that is public information and just the title of the
7 lawsuit.

8 So, I ask you, really, what is the big deal at this point?
9 I mean, I feel like Mr. Dondero has to understand what this
10 lawsuit is about, from what little bit has trickled out there,
11 so what's the big deal? It sounds like to me you're just
12 worried about the exhibits, the attachments to -- I can't
13 remember if it was to the complaint or the motion for TRO and
14 preliminary injunction. Is that -- am I hearing that
15 correctly, it's really these documents more than anything else
16 you feel are sensitive?

17 MS. GEORGE: Well, we feel it's all sensitive, Your
18 Honor. That's why we were willing to share the complaint on a
19 strictly confidential basis with Mr. Dondero. We feel very
20 strongly that he should not have full access to the complaint
21 without any confidentiality restrictions upon it, because our
22 -- one of our major concerns is him seeing the complaint,
23 seeing other individuals described therein, seeing the
24 documents with the conversations that he's not copied on, and
25 then going to those individuals and working to further, you

1 know, relieve assets and further hurt UBS's chances at
2 recovering the billion-dollar judgment that's owed against
3 these, you know, these Highland funds.

4 THE COURT: Okay. All right. So, again, just to
5 make sure I'm hearing you loud and clear, if there was an
6 order here where the Court required the unsealing of the --
7 or, you know, I don't know how we want to phrase it -- allowed
8 Mr. Dondero to see everything, the pleading and the exhibits,
9 as long as it restricted him from sharing it or discussing it
10 with anyone other than his counsel, you all are willing to
11 live with that? Am I hearing that correctly?

12 MS. GEORGE: I think -- very close. We would be
13 willing to share the complaint with him, as long as he agreed
14 not to share it, discuss it, or use it to develop strategy
15 with any -- anyone else other than his attorneys. We would
16 feel uncomfortable sharing the exhibits, --

17 THE COURT: Okay.

18 MS. GEORGE: -- as those are the documents that he is
19 not on.

20 THE COURT: Okay. I misheard you on the exhibits.
21 All right. Well, and I guess we don't need to say anything
22 about the alternative service. Again, I've got your
23 affidavit, your declarations of many, many process servers
24 that I've seen here, and I think you've kind of said all you
25 need to say on that one from your pleading.

1 All right. Well, before I return back to you, Mr. Taylor,
2 Mr. Morris, you're a party in this, obviously, your client is.
3 Do you have anything you want to say about these disputes?

4 MR. MORRIS: Your Honor, John Morris; Pachulski Stang
5 Ziehl & Jones. Just very briefly.

6 As I understand the motion and I understand the argument
7 today, the only thing we're talking about is a complaint and
8 the exhibits attached to the complaint. We're not talking
9 about the Debtor's response or the exhibits attached to the
10 response. And if that's the case, Your Honor, we take no
11 position on how the Court should rule on the treatment of the
12 complaint and the exhibits annexed thereto, nor do we take a
13 position on service or the deposition. We haven't joined in
14 that.

15 THE COURT: Okay. I'm going to go back to Ms.
16 George. Were there exhibits attached to the complaint, or
17 just to the motion for a TRO and preliminary injunction? And
18 the Debtor's --

19 MS. GEORGE: Just the motion, Your Honor. So, yeah,
20 the complaint is a standalone document.

21 THE COURT: Okay. Okay. Okay, thank you.

22 MS. GEORGE: The exhibits were attached to the
23 motion. Yes.

24 THE COURT: Okay. Okay.

25 MR. MORRIS: Okay. So, Your Honor, just to clarify,

1 then, that's fine, and the Debtor's position stands, as long
2 as we're not talking about the Debtor's response and the
3 exhibits attached to the Debtor's response. I don't think
4 that's part of the motion. I don't think any request has been
5 made of us in that regard.

6 THE COURT: All right. Mr. Taylor, I'll give you the
7 last word, but I'll tell you where I'm leaning so you know
8 exactly what perhaps you need to address. I'm leaning
9 towards, I guess we would say, granting your motion for
10 protective order in part, and that would work like this. That
11 UBS would provide to you and Mr. Dondero the complaint, just
12 the complaint, and the Court would order that the complaint
13 not be shared beyond Mr. Dondero and his lawyers at Bonds
14 Ellis absent further order of the Court.

15 I always like to say the obvious, that I have discretion
16 to change that if ever someone urges and convinces me to
17 change that, but that would be the ruling on that. And I
18 would be inclined to rule that alternative service of the
19 subpoena, by service on you and electronic service to Mr.
20 Dondero, is appropriate, and say at this point that the
21 document production would occur seven days after you see the
22 complaint, and the deposition maybe a couple of days after
23 that.

24 So, what -- knowing where I'm leaning, what say you, Mr.
25 Taylor?

1 MR. TAYLOR: Your Honor, first of all, I'd like to
2 point out that we offered to view the complaint and related
3 items under the auspices of the protective order that is in
4 place in the main bankruptcy case. We believe that is the
5 appropriate standard by which it should be done, instead of
6 just Bonds Ellis and his attorney. The protective order in
7 place does allow him to discuss what he sees with affiliates
8 and their -- and their agents. I'm sorry, their attorneys. I
9 said agents. I apologize. And we believe that that is the
10 appropriate thing.

11 I think what becomes really apparent here, Your Honor, is
12 this is not only a strategic move to get free discovery from
13 who the ultimate target is by two different parties, we need
14 to be able to see the complaint to -- the complaint and the
15 response. So, despite what Mr. Morris said, that that's not
16 what we're asking for, it is. If I inartfully pled it, I
17 apologize. But we need to see the full thing.

18 These are two parties acting in concert to ultimately
19 drive the litigation goal that appears to be aimed against my
20 client. These are not true plaintiff and defendant here. The
21 fact that they enjoined themselves is -- is kind of laughable.
22 It just is. And they have an agreement in total that they --
23 to settle everything, but yet they asked for an injunction of
24 one party against the other. It's -- that's just silly.

25 And Your Honor, they're trying to also wall Mr. Dondero

1 off. I love our attorneys here at Bonds Ellis and I think we
2 do a great job, but let's look at the manpower that they
3 wanted to stack this up against. They want Pachulski Stang
4 and Latham & Watkins v. little Bonds Ellis. And you know
5 what, they can swamp us. And you know what, they're doing a
6 damn good job of trying to do it.

7 And, but they're trying to wall Mr. Dondero off from being
8 able to get the resources he needs to be able to defend
9 himself and any affiliated entities. And they're trying to
10 wall it off and they're -- it's a clever -- you -- sometimes
11 you've just to call out a spade a spade, and that's what's
12 happening here, in addition to the free discovery and ultimate
13 litigation. They're trying to wall Mr. Dondero off. And it's
14 not appropriate, Your Honor, and we need your help to prevent
15 -- prevent that from happening. They're trying to stack the
16 deck.

17 And as far as seven days after, with all due respect, I've
18 -- I've got trial that is continuing and has been for the past
19 month in Judge Hale's court, and we've got three -- two, maybe
20 three more days left of trial in that. I've got a couple
21 other matters down in Judge Isgur's court that are equally
22 large and actually, as far as terms of dollars, much larger
23 even than this case. And there's only so much bandwidth I
24 have to be able to deal with this, Your Honor.

25 Also, our lead -- as Your Honor is aware, our lead person

1 on this case is not here anymore, and I'm not leaning on that
2 as an excuse, but there is some ramp-up that we are
3 experiencing, trying to overcome that. And so it's just --
4 it's too fast.

5 Normally, after you got served with a complaint, you would
6 at least have 21 days before they could even serve you with
7 discovery, and then you should have 30 days to be able to
8 answer it. That's the standard response date that is laid out
9 in the Rules. So, in my opinion, it should be 51 days after
10 we get to view the response.

11 And I see Mr. Seery is laughing, but, you know, it's --
12 those are what the Rules are. And if they wanted to bring
13 litigation against Mr. Dondero, then bring it. Don't hide
14 behind this third -- this two friendly-party litigation.

15 And I'm sorry my voice is getting raised, but it just --
16 it raises my ire a little bit. I know other parties are
17 probably -- equally have as much ire against my client. And
18 so I will try to refrain from doing that in the future.

19 That's all, Your Honor.

20 MR. MORRIS: Your Honor, may I be heard? It's John
21 Morris with Pachulski.

22 THE COURT: Do you have something to clarify, or
23 what?

24 MR. MORRIS: I do, actually. You know,
25 notwithstanding my respect for Mr. Taylor, I do take offense

1 to the use of the words "laughable" and "silly." The fact of
2 the matter is the Debtor is a defendant in a lawsuit. We have
3 not joined in seeking discovery against Mr. Dondero. Indeed,
4 we are the recipient of very voluminous discovery demands
5 pursuant to the subpoena that was served on the Debtor itself.
6 We've taken no position as to whether or not the complaint
7 should be disclosed. We've taken no position as to whether or
8 not alternative service should be granted. The notion that
9 this is a friendly -- a so-called friendly litigation, Mr.
10 Taylor is simply mistaken.

11 And I would ask, Your Honor, can we make sure that Mr.
12 Dondero is on this call, pursuant to the court order? I don't
13 see his video here.

14 THE COURT: All right. What about that, Mr. Taylor?

15 MR. TAYLOR: So, one, I did send him a link, and I
16 don't know if he is attending or not.

17 Two, I don't believe -- and this is where this gets -- it
18 points out the problems we have with not following the
19 procedural rules. From what I understand of the order
20 requiring him to be present for all bankruptcy proceedings,
21 and this is -- this is an adversary proceeding, to which he is
22 not a party, because he has not been sued, and that order
23 simply doesn't require him to be here.

24 Now, he may be here or not, because it was important to
25 him, but I don't know what his schedule was, so I didn't

1 confirm for sure whether he was going to be on. And so I'd
2 quite simply say I sent him a link but I didn't instruct him
3 that he absolutely had to be here because I did not believe,
4 under the Court's order, that he had to be. And certainly, as
5 a nonparty, I don't think he is. And that's all I can tell
6 the Court on that issue.

7 THE COURT: All right. Well, let me ask. Mr.
8 Dondero, if you're out there, please speak up so we know.

9 (Pause.)

10 THE COURT: Just so you know, I have a screen here in
11 my courtroom they call the Polycom. I can't see every single
12 -- I can just see that there are 49, 50, 51, 52, 53 -- 55 or
13 56 participants. But I can only see people who have recently
14 spoken or are speaking. I can't see every person who's
15 involved.

16 Mike, do you happen to see if --

17 THE CLERK: I don't see him on there.

18 THE COURT: Yes. We don't see Mr. Dondero. All
19 right. So, gosh.

20 MS. GEORGE: Your Honor, may I respond briefly?

21 THE COURT: Okay. Go ahead. Go ahead.

22 MS. GEORGE: Thank you, Your Honor. You know, Mr.
23 Taylor made some -- some outrageous accusations there. This
24 is not a collusive suit by any stretch of the imagination. We
25 are seeking a temporary restraining order against the Debtor.

1 They are on the other side. And the rules that Mr. Taylor
2 continues to cite are with regard to parties. They do not
3 apply in injunctive -- in emergency injunctive relief on third
4 parties.

5 I -- you know, Mr. Taylor mentioned he's very busy. I'm
6 sure everyone on this call is very busy. I know for a fact
7 that Your Honor is incredibly busy. I receive the docket
8 updates every day. And so I think he's making a lot of
9 excuses, and he has had -- and the short timeline is, you
10 know, of his own making. They have been evading service for
11 30 days now. There is no question that they have had more
12 than enough time to prepare for a deposition, to collect the
13 documents responsive to the subpoenas. So any short timeline
14 that's going to be an issue for him is because of his client
15 avoiding service.

16 THE COURT: Okay.

17 MS. GEORGE: Thank you, Your Honor.

18 THE COURT: Thank you.

19 Well, let me say several things here. I don't have
20 memorized the exact way I worded my instruction many weeks ago
21 regarding Mr. Dondero attending all of these court hearings.
22 I can't remember. I know what I intended to do, and I'm
23 surprised if I didn't get it worded in an order this way.
24 What I intended to do was at least say this: At any hearing
25 where he takes a position, where he files a pleading or wants

1 to take a position, he needs to be here. That's what I
2 thought I said. And I didn't mean just in the underlying
3 bankruptcy case or in certain adversaries. I meant if he
4 wants the Court to devote time to him and his positions, I
5 don't want it to be just the lawyers. I want him to be here,
6 available. Available to the Court, available to any party who
7 might want to examine him with regard to the positions he
8 takes. And I want him to see what's happening.

9 I had many motivations, but of course a strong motivation
10 for ordering that was when, at a hearing shortly after the
11 TRO, the December 10th TRO, he, in deposition testimony and
12 then at the preliminary injunction hearing testimony, he gave
13 the impression that he hadn't ever read the TRO. Or hadn't
14 visited about -- hadn't attended the hearing on the TRO,
15 hadn't read it, didn't really -- you know, acted like he
16 wasn't completely aware of its details. So I wanted to make
17 sure that never happened again. If there was an order somehow
18 affecting him, I wanted to be sure he was here when it all
19 happened. But I also think, again, if he's taking positions,
20 he needs to be here and be a part of it all. Okay? So, --

21 MR. MORRIS: Your Honor, if I may, because I can just
22 read you the order right now.

23 THE COURT: Oh, good.

24 MR. MORRIS: Because it's clear as day, just as Your
25 Honor recalled it.

1 It's at Docket No. 59 in the adversary proceeding
2 concerning the injunctive relief. The preliminary injunction
3 was entered on January 12, 2021. And Paragraph 6 provides,
4 "James Dondero is ordered to attend all future hearings in
5 this Bankruptcy Court by WebEx or whatever other video
6 platform is utilized by the Court unless otherwise ordered by
7 the Court."

8 THE COURT: Okay.

9 MR. MORRIS: There's no exceptions. It's --

10 THE COURT: All right.

11 MR. MORRIS: And I would -- yeah. I'll just leave it
12 at that.

13 THE COURT: It's even a little broader than I
14 remembered. It didn't narrow in on if he's taking a position.
15 So that, you know, he's violated a court order today. But,
16 anyway, I'm sure you will communicate to him that he needs to
17 participate in the future. Okay? And I guess I'm going to
18 have to play teacher and call roll and make sure he's out
19 there right at the beginning of every hearing.

20 MR. TAYLOR: Your Honor, I'll make sure of that. And
21 to the extent, if that was my fault, of course, I wasn't
22 involved with this case when -- when Your Honor made those
23 rulings.

24 THE COURT: Okay.

25 MR. TAYLOR: As you know, I only recently came into

1 this case, just merely it was supposed to be just for purposes
2 of confirmation.

3 THE COURT: Okay.

4 MR. TAYLOR: And the circumstances have --

5 THE COURT: Well, if --

6 MR. TAYLOR: -- developed.

7 THE COURT: If it sets your mind at ease, I'm not
8 going to an issue a show cause order this afternoon to hold
9 him in contempt of court for not being on today's WebEx. I've
10 already got enough contempt motions in front of me in this
11 case, and I don't want to add to it with this. Okay?

12 But let me get to the matters before me. You know, I --
13 the word "silly" was used at some point by someone, and, you
14 know, I always cringe a little. I was tempted to come out
15 here and say, this is silly. You know, he's dodging service.
16 And by the way, the cat's out of the bag. Surely he knows
17 what this lawsuit is about. I was tempted to use that word
18 myself. But I wanted to make sure Mr. Dondero knows and
19 everyone knows, I mean, this is serious stuff. I read the
20 complaint, obviously. I've read the motion for the TRO and
21 attachments. It's serious stuff. And you know, have no doubt
22 about that.

23 But it is a complaint of UBS against Highland. Mr.
24 Dondero is not a defendant. None of the various entities that
25 we've talked about in so many hearings, in so many contexts,

1 under the Highland umbrella, none of them are defendants in
2 this lawsuit. There may be other lawsuits that mushroom and
3 involve some of them regarding some of what is alleged in the
4 complaint. But at this point, it's UBS against Debtor.

5 And yes, I understand describing it as friendly litigation
6 when, right at the beginning, Highland agrees to a TRO. But
7 gosh, isn't this case full of irony, among other things? You
8 know, I don't know that I've ever seen two parties fight each
9 other as hard as Highland and UBS as we've seen in this case.
10 And they went to mediation. No go. Didn't settle. We had a
11 long estimation hearing. We've had appeals. You know, it's
12 -- I find it a little of a stretch to think of this as
13 friendly litigation. It's cooperation at this point, is what
14 I would call it, and we'll see what happens. But, again, I
15 just stress for the record that Mr. Dondero is not a party,
16 nor is any other entity in the Highland umbrella, other than
17 the Debtor Highland itself.

18 Now, having said that, I do not take sealing lightly at
19 all. I'm trying to think -- well, it's not very often that
20 I've been asked to seal an adversary proceeding. It happens,
21 but I don't take it lightly, because I am, like I think any
22 judge, sensitive to transparency, to Bankruptcy Code Section
23 107, and allowing all parties in interest in a bankruptcy case
24 to know what's going on. But there are times when there is
25 sensitive commercial information, potentially scandalous,

1 defamatory matter. You know the examples in 107 and the case
2 law. There are situations where at least temporary sealing is
3 warranted. And I decided, after spending a half a day at my
4 desk looking through this one, that it was appropriate, at
5 least for now.

6 And I don't even think, the way UBS worded it -- well, I
7 know they worded it in an open way, where, you know, for now.
8 I'm thinking you said until a hearing on the preliminary
9 injunction, maybe. Am I right, Mr. Clubok or Ms. George?

10 MS. GEORGE: That's correct, Your Honor.

11 THE COURT: Yes.

12 MS. GEORGE: Your Honor, that's correct. It's just
13 sealing until the preliminary injunction hearing.

14 THE COURT: Yes. So, you know, that's a big deal,
15 right? That's a big factor, that we're talking about a finite
16 period of time. And, again, I spent a half a day at my desk
17 looking at this, and was convinced there are valid concerns in
18 keeping this sealed for a finite period of time.

19 So, what I'm going to do is grant in part Mr. Dondero's
20 motion, and I'm going to do it the way I suggested earlier.
21 He shall be allowed to see the complaint. Okay? He can see
22 the complaint. And at this point, it can only be shared with
23 him and Bonds Ellis. Okay? So that's the ruling for now.
24 Okay? We're talking about a finite period of time. So I'm
25 not persuaded that his fiduciary duties make this intolerable

1 or he needs more lawyers than Bonds Ellis. I mean, this is
2 the ruling for now. I think it strikes a fair balance.

3 So he gets to see the complaint and Bonds Ellis gets to
4 see the complaint, but protective order is in place so that
5 they are restricted from sharing or discussing the contents
6 with anyone else.

7 So, my further ruling is that the alternative service of
8 the subpoenas on Mr. Dondero is approved. Again, mailing to
9 Mr. -- regular mail to Mr. Dondero is fine, and email to Mr.
10 Taylor is fine.

11 And I can't remember, I mean, it's not an onerous list of
12 documents sought, right? I've got to pull this up again. It
13 was how many categories of documents?

14 MR. TAYLOR: Sorry, I'm turning there right now, Your
15 Honor.

16 (Pause.)

17 THE COURT: It didn't occur to me that more than
18 seven days was needed.

19 MS. GEORGE: It's twelve categories of documents,
20 Your Honor.

21 THE COURT: Okay. Show me again the docket number
22 or tell me the docket number that it appears at.

23 MS. GEORGE: Certainly. It's Docket 23.

24 THE COURT: Okay. There it is.

25 MS. GEORGE: And it's Page -- yeah, Page 27 of that

1 PDF.

2 THE COURT: Okay. Page 27.

3 MS. GEORGE: And as Your Honor will see, they're
4 fairly limited categories of documents.

5 THE COURT: Okay. Well, I just wanted to double-
6 check. Okay. (Pause.) Okay. Seven days from, again, the
7 time the complaint is received. I assume you're going to send
8 the complaint today. I don't know, maybe you want to have the
9 order in place before you do that, so maybe tomorrow. So
10 let's just get a date certain. Okay? So, the documents shall
11 be produced -- what is seven days from tomorrow? What is
12 that?

13 MR. TAYLOR: May 6th, Your Honor.

14 THE COURT: May 6th. And so can we say a deposition
15 the following Monday? I'm going to be the secretary/scheduler
16 here just while you're all on the line, so we don't waste a
17 bunch of time offline. That'll be 10th, May 10th. Everybody
18 good with May 10th for -- of course, Mr. Dondero is not here,
19 so we don't -- does anyone know why May 10th doesn't work?

20 MS. GEORGE: May 10th works for UBS, Your Honor.

21 THE COURT: Okay. May 10th unless you all otherwise
22 agree. If you all mutually agree to something different,
23 fine. But if you can't, May 10th at 9:30 in the morning. How
24 does that sound?

25 All right. Well, --

1 MR. TAYLOR: Your Honor, I --

2 THE COURT: Uh-huh?

3 MR. TAYLOR: Your Honor, I would note for you, I
4 believe that you have docket call on the injunction suit
5 against Highland Capital v. Dondero on May 10th.

6 THE COURT: Okay.

7 MR. MORRIS: That is true.

8 THE COURT: Okay. Just the trial docket call?

9 MR. MORRIS: Correct.

10 THE COURT: Okay.

11 MR. MORRIS: I actually think the scheduling order
12 may say the week of, but I'm not certain, Your Honor.

13 MR. TAYLOR: I don't know. I'm just showing it on my
14 docket calendar as 1:30.

15 THE COURT: Okay.

16 MR. TAYLOR: I'm not --

17 MR. MORRIS: It may --

18 THE COURT: So that's probably the regular -- that
19 should be our regular trial docket call, which is just a time
20 where we all show up and say, are you all trial-ready? Okay.
21 If so, we're going to set it, you know, the following week of
22 May 17th. So it seems like you can do both, right? You can
23 take a break from the deposition, if you're still going at
24 1:30, and dial into the WebEx and we'll see if you all are
25 going to be trial-ready. Because it wouldn't be a trial.

1 It's just our trial docket call to hear if everyone is trial-
2 ready. All right? So, I think we can do that.

3 MS. GEORGE: We will absolutely take a break, Your
4 Honor, if that's scheduled for that day.

5 THE COURT: Okay. All right. Ms. George, can I
6 depend on you to upload forms of order that reflect the
7 Court's ruling?

8 MS. GEORGE: Yes. We'd be more than happy to. Thank
9 you, Your Honor.

10 THE COURT: All right. Thank you. We stand
11 adjourned.

12 THE CLERK: All rise.

13 (Proceedings concluded at 2:39 p.m.)

14 --oOo--

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CERTIFICATE

20 I certify that the foregoing is a correct transcript from
21 the electronic sound recording of the proceedings in the
above-entitled matter.

22 **/s/ Kathy Rehling**

04/29/2021

23

Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

Date

24

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