

UBS Securities LLC and UBS AG London Branch (together, “UBS”), plaintiffs in this adversary proceeding and creditors in the above-captioned chapter 11 case, respectfully submit this Motion (the “Motion to Unseal”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), granting UBS leave to file publicly (i) UBS’s *Original Complaint for Injunctive Relief* (the “Injunction Complaint”) [Adv. Dkt. No. 3] initiating this adversary proceeding against Highland Capital Management, L.P. (“Highland” or the “Debtor”), and (ii) *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* and the accompanying Memorandum of Law and Appendix [Adv. Dkt. Nos. 4-6] (collectively, the “Injunction Motion”), both currently filed under seal pursuant to the Court’s *Order Granting Leave for UBS to File Adversary Complaint and Other Materials Under Seal* (the “Order”) [Adv. Dkt. No. 2]. In support of this Motion to Unseal, UBS states as follows:

JURISDICTION AND VENUE

1. This 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). Venue is proper under 28 U.S.C. §§ 1408-1409.

BACKGROUND

2. On March 29, 2021, UBS filed a *Motion for Leave to File Adversary Complaint and Other Materials Under Seal* (the “Motion to Seal”) seeking leave to file the Injunction Motion and Injunction Complaint under seal in order to initiate this Adversary Proceeding [Chp. 11 Dkt. No. 2128].

3. The Court granted the Motion to Seal under the Order and ruled that the relevant materials would remain under seal “until any hearing on UBS’s request for a preliminary injunction is held or such earlier time that UBS may request that certain of the foregoing materials be unsealed” [Adv. Dkt. No. 2 at 2].

4. Pursuant to the terms of the Order, UBS now submits this Motion to Unseal the relevant materials.

RELIEF REQUESTED

5. By this Motion to Unseal, UBS respectfully requests entry of an order, substantially in the form of the Proposed Order, allowing UBS to file the Injunction Complaint and Injunction Motion publicly.

BASIS FOR RELIEF REQUESTED

6. Parties and non-parties to this Adversary Proceeding have engaged (and continue to engage) in factual discovery related to the Injunction Complaint and the Injunction Motion. Additionally, parties and non-parties have engaged in motion practice related to the Injunction Complaint and the Injunction Motion in this Adversary Proceeding [*see* Adv. Dkt. Nos. 55-65, 74-80, 98-102] and the Chapter 11 Case [*see* Chp. 11 Dkt. Nos. 2199, 2308, 2310].

7. These motions and their exhibits have been publicly filed and the related hearings publicly held such that the information in the Injunction Complaint and the Injunction Motion no longer rise to the level of (1) “trade secret[s] or other confidential research, development, or commercial information,” (2) “scandalous or defamatory matter,” or (3) “governmental matters that are made confidential by statute or regulation.” Fed. R. Bankr. P. 9018(1); *see also* 11 U.S.C. § 107(b)(1).

8. Therefore, the information contained in the Injunction Complaint and the Injunction Motion no longer needs to remain under seal pursuant to Rule 9077-1 of the Local Rules.

CONCLUSION

9. UBS thus respectfully requests that the Court enter an order, substantially in the form of the Proposed Order, granting UBS leave to file the Injunction Complaint and Injunction Motion publicly as set forth therein.

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Dated: October 27, 2021

Respectfully submitted,

/s/ Kathryn George

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*Counsel for UBS Securities LLC and UBS AG
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CERTIFICATE OF CONFERENCE

The undersigned certifies that, on October 26, 2021, counsel for UBS conferred with counsel for Highland Capital Management, L.P., the Defendant in this adversary proceeding, about this Motion to Unseal. Counsel for Highland Capital Management, L.P. indicated that Highland Capital Management, L.P. does not object to the relief sought herein.

Dated: October 27, 2021

/s/ Kathryn George
Kathryn George

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that *UBS's Motion To Unseal Adversary Complaint And Other Materials* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: October 27, 2021

/s/ Martin Sosland
Martin Sosland

**ORDER GRANTING UBS'S MOTION TO UNSEAL ADVERSARY COMPLAINT
AND OTHER MATERIALS**

The Court has considered *UBS's Motion to Unseal Adversary Complaint and Other Materials* (the "Motion to Unseal") filed by UBS Securities LLC and UBS AG London Branch (together "UBS"); and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue of this proceeding and the Motion to Unseal is proper in this District pursuant to 28 U.S.C. §§ 1408-1409; and due, adequate, and sufficient notice of the Motion to Unseal having been given to the Court's previous *Order Granting Leave for UBS to File Adversary Complaint and Other Materials Under Seal* [Adv. Dkt. No. 2]; and having determined that the legal and factual bases set forth in the Motion to Unseal establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor it is hereby **ORDERED** that:

1. The Motion to Unseal is **GRANTED**; and
2. UBS is authorized to unseal the Injunction Complaint and Injunction Motion.

###End of Order###

Order prepared by:

/s/ Kathryn George

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