

**DEFENDANTS' MOTION TO
CONSOLIDATE THE NOTE CASES**

Defendants¹ hereby file this Motion to Consolidate five related cases (the "Note Cases") involving promissory notes reflecting loans made by Plaintiff-Debtor Highland Capital Management, L.P., requesting the Court to consolidate the Note Cases into Case No. 3:21-cv-00881, to be heard by the Honorable Judge Starr for all purposes other than trial, and additionally to consolidate all of the cases other than Case No. 3:21-cv-00881-X for trial. In support, Defendants show as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to Sections 1331 and 1367 of Title 11 of the United States Code.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409.

II. RELIEF

3. Defendants request that this Court issue the proposed form order attached as **Exhibit A** (the "Proposed Order") hereto.

4. For reasons set forth more fully in Defendants' Memorandum of Law in Support of their Motion to Consolidate the Note Cases (the "Memorandum in Support"), Defendants request that this Court consolidate the Note Cases under Case No. 3:21-cv-00881, to be heard by the Honorable Judge Starr, who already presides over two of the five above-captioned Note Cases, and several other cases arising out of the Case No. 19-34054-sgj11, pending in the United States Bankruptcy Court for the Northern District of Texas (the "Highland Bankruptcy").

¹ As used herein, the term "Defendants" includes all named Defendants in the above-captioned proceedings, unless otherwise specified.

5. In accordance with Rule 7.1 of the Local Civil Rules of the United States District Court for the Northern District of Texas, Defendants are filing contemporaneously herewith and in support of their Motion: (1) the Memorandum in Support, and (2) their Appendix in Support of Defendants' Motion to Consolidate the Note Cases (the "Appendix").

6. Based on the arguments presented in the Memorandum in Support and the exhibits included within the Appendix, Defendants are entitled to the relief requested herein and as set forth in the Proposed Order.

7. Notice of this Motion has been provided to all parties.

WHEREFORE, Defendants respectfully request this Court enter the Proposed Order in the form annexed hereto as Exhibit A granting the relief requested herein, and grant Defendants such other and further relief as the Court may deem proper.

Dated: December 10, 2021

Respectfully submitted,

/s/Deborah Deitsch-Perez

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**ATTORNEYS FOR NEXPOINT ADVISORS, L.P. AND
HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.**

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that on December 7, 2021, counsel for Defendants conferenced with Plaintiff-Debtor's counsel regarding the relief requested herein as detailed more fully in the accompanying Declaration of Deborah Deitsch-Perez. The parties were unable to reach an agreement regarding the issues, and Debtor filed its own (improper) motion to consolidate solely in the third-lowest District Court case filed, with no filing in the first-filed (or any other of) the Note Cases. Defendants therefore understand this Motion is opposed.

/s/Deborah Deitsch-Perez
Deborah Deitsch-Perez

EXHIBIT A

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

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Adv. Proc. No. 21-03005-sgj
	§	
NEXPOINT ADVISORS, L.P., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	§	Case No. 3:21-cv-00880-C
	§	
Defendants.	§	

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Adv. Proc. No. 21-03004-sgj
	§	
HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.,	§	Case No. 3:21-cv-00881-X
	§	
Defendant.	§	

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Adv. Proc. No. 21-03003-sgj
	§	
JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	§	Case No. 3:21-cv-01010-E
	§	
Defendants.	§	

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Adv. Proc. No. 21-03006-sgj
	§	
HIGHLAND CAPITAL MANAGEMENT SERVICES, INC., JAMES DONDERO,	§	Case No. 3:21-cv-01378-N
	§	

NANCY DONDERO, AND THE
DUGABOY INVESTMENT TRUST,

Defendants.

§
§
§
§
§

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

Adv. Proc. No. 21-03007-sgj

Case No. 3:21-cv-01379-X

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§
§
§

HCRE PARTNERS, LLC (n/k/a NexPoint
Real Estate Partners, LLC), JAMES
DONDERO, NANCY DONDERO, AND
THE DUGABOY INVESTMENT TRUST,

Defendants.

**ORDER GRANTING
DEFENDANTS MOTION TO CONSOLIDATE THE NOTE CASES**

Before this Court is Defendant’s Motion to Consolidate the Note Cases [Docket No. ___] (the “Motion”). Having considered: (a) the Motion; (b) Defendants’ Memorandum of Law in Support of their Motion to Consolidate the Note Cases [Docket No. ___]; and (c) the Appendix in Support of Defendants’ Motion to Consolidate the Note Cases [Docket No. ___] (the “Appendix”) and the exhibits annexed thereto; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1331; and this court having found that venue of this proceeding is proper pursuant to 28 U.S.C. § 1391; and this Court having found that consolidation of the Note Cases is warranted under Rule 42(a) of the Federal Rules of Civil Procedure; and this Court having found that notice of this Motion was properly and adequately provided to Plaintiff; and this Court having found that the interests of judicial efficiency are best served by consolidation of the Note Cases under Case No. 3:21-cv-00881 to be heard by the Honorable Judge Starr because (i) Case No. 3:21-cv-00881 is the lowest-numbered case in the Dallas Division, and (ii) Judge Starr has already been assigned two of the five Note Cases captioned above, as well as other cases arising out of the Highland

Bankruptcy; 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 and for the reasons set forth in the record on this Motion, it is **HEREBY ORDERED THAT**:

1. Defendants' Motion is **GRANTED** as set forth herein.
2. The Note Cases are consolidated under Case No. 3:21-cv-00881 for all purposes other than that Case No. 3:21-cv-00881-X may be tried separately (or that the determination of whether such case shall be tried separately is deferred until after all summary judgement motions are heard and decided), to be heard by the Honorable Judge Starr.

It is so ORDERED this _____ day of _____, 202__.

HONORABLE JUDGE PRESIDING
United States District Judge